

(2011) 03 KL CK 0297
In the High Court Of Kerala
Case No : MACA. No. 2084 of 2007

Divisional Manager

APPELLANT

Vs

Jose, Joyappan and P.E. Devassykutty

RESPONDENT

Date of Decision : 24-03-2011

Acts Referred:

Citation : (2011) 03 KL CK 0297

Hon'ble Judges : M.C. Hari Rani, J;A.K. Basheer, J

Bench : Division Bench

Advocate : Lal George, for the Appellant; V. Binoy Ram, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Basheer, J.—In this appeal preferred by the Insurance Company, the only question that arises for consideration is whether the Motor Accidents Claims Tribunal was justified in mulcting the appellant with the liability to pay compensation to the claimant.

2. It is beyond controversy that the claimants suffered certain injuries in a road traffic accident that occurred on May 26, 2001. It is also not in dispute that the offending vehicle bearing registration No. KL-7/Y 1428 was covered under a policy issued by the Appellant. In fact the Appellant-company, while admitting the policy coverage, raised only a contention that there was some delay in reporting the accident to the police and that the amount claimed by way of compensation was exorbitant.

3. The Tribunal, after considering the oral and documentary evidence adduced by the claimant, directed the Insurance Company to pay a sum of Rs. 94,194/- with interest at the rate of 7% per annum on the principal sum of Rs. 91,821/-. In view of the tacit admissions made by the Appellant insurance company as regards the policy coverage, the Tribunal directed the Appellant to pay the compensation.

4. However, it is contended by the Appellant in this appeal that the policy issued by the company being only an "Act only" policy, the claimant, who was a pillion, was not covered under the said policy. According to the learned Counsel, this aspect ought to have been considered by the Tribunal while passing the award.

5. It may at once be noticed that the Appellant did not bother to produce even a copy of the policy certificate before the Tribunal, nor did it raise any such specific plea in the counter statement. Of course, the Appellant has now pressed into service photocopy of a policy indicating the name of the registered owner. The Branch Manager of the Company at Thrissur has authenticated the said document with the following endorsement:, "verified with original and found true copy". In our view, it is too late in the day for the Appellant to raise a contention before this Court that it had issued only an "Act only" policy especially since the Appellant had failed to produce the relevant document before the Tribunal. As has been noticed already, the company did not have a case that it had not collected any additional premium to cover the risk of the pillion rider. Though learned Counsel prayed for remitting the case to the Tribunal for a fresh consideration, we are not satisfied that this is a fit case in which the above plea is to be countenanced or accepted, especially because the accident had occurred in the year 2001. In any view of the matter, the award passed by the Tribunal is just and reasonable. Therefore, the award is confirmed and the appeal is dismissed.