

(1987) 10 KL CK 0018
In the High Court Of Kerala

K.S.T. Drivers Union

APPELLANT

Vs

K.S.R.T.C.

RESPONDENT

Date of Decision : 12-10-1987

Acts Referred:

Kerala Civil Services (Classification, Control and Appeal) Rules, 1960 — Rule 11(iv)(a)

Citation : (1988) 2 ACC 591 : (1989) ACJ 361

Hon'ble Judges : V.S. Malimath, C.J;V. Bhaskaran Nambiar, J

Bench : Division Bench

Judgement

Malimath, C.J.—An Accident having taken place resulting from the negligence of the conduct of the vehicle and the driver, a claim was made by the legal representatives of the person who died as a result of the accident for damages under the provisions of the Motor Vehicles Act, 1939. The Tribunal made an award for a sum of Rs. 35,000/- against the Corporation, the conductor and the driver who is the second petitioner in this case. Proceedings were initiated by the Corporation for recovering the loss caused to the Corporation. The Corporation ultimately proposed to recover one third of the amount directed to be paid by the Tribunal from the second petitioner by deducting a reasonable amount from the salary of the petitioner. It is the said action of the Corporation that is impugned in this Original Petition.

2. The principal contention of the petitioners is that under Rule 15A of Part IA of the Motor Vehicles (Third Party Insurance) Rules a fund having been created, the Corporation has to pay the damages awarded by the Claims Tribunal by withdrawing amounts from the said fund. Our attention was invited to the provisions of Rule 15G of the said rules which provides that no amount shall be withdrawn from the fund except for the purpose of meeting any liability arising out of the use of any motor vehicle of the Authority which the Authority or any person in the employment of the Authority may incur to third parties including liability arising under the Workmen's Compensation Act, 1923. It is no doubt true that payment can be made by withdrawing from the fund to pay damage to

third parties who have suffered injuries as a result of the negligent driving of the vehicle by the employees of the Corporation. Section 15G is an enabling provision which entitles the Corporation to withdraws from the fund and to discharge the liability to third parties. In our opinion, these provisions do not come to the aid of the second petitioner for absolving him from his own liability to the Corporation, If the petitioner is guilty of negligence which has resulted in loss to the Corporation, Rule 11(iv)(a) of the Kerala Civil Services (Classification, Control and Appeals) Rules which have been adopted by the Corporation enables the Corporation to recover from pay of the whole or part of any documentary loss caused to the Corporation by negligence or breach of orders. Whereas Rule 15G of the Motor Vehicles (Third Party Insurance) Rules framed under the Motor Vehicles Act is intended to deal with the situation where the liability to third parties is required to be paid by the Corporation, Rule (iv)(a) of the Kerala Civil Services (CC & A) Rules entitles to Corporation to recover from its own employees the pecuniary loss caused to it on account of the negligence or on account of breach of orders committed by its employees. The fact that the corporation can pay the damages under rule 15G of the Motor Vehicles (Third Party Insurance) Rules to the third parties, does not absolve the liability of the employee to reimburse the Corporation for the loss he has caused to the Corporation by his own negligence. This is precisely that the Corporation has done in this case. We have therefore no hesitation in repelling the contention of Sri Subramani, learned Counsel for the Petitioners that the second petitioner could not have been proceeded against under Rule (i)(a).

3. Hence this Original Petition fails and is dismissed. No costs.