

(2000) 07 KL CK 0056
In the High Court Of Kerala
Case No : M.F.A. No. 430/93

M. Vinod

APPELLANT

Vs

T. Haridasan and Others

RESPONDENT

Date of Decision : 13-07-2000

Acts Referred:

Motor Vehicles Act, 1939 — Section 110

Citation : (2000) 07 KL CK 0056

Hon'ble Judges : N. Krishnan Nair, J;K. Narayana Kurup, J

Bench : Division Bench

Advocate : T.G. Rajendran and Sunny Mathew, for the Appellant; Mathews Jacob, for the Respondent

Judgement

K. Narayana Kurup, J.—On 12th June 1989 an 18 year old youth who was a watch repairer by profession met with a road traffic accident as a result of which he suffered a lacerated wound horizontal 7 cm. X 1 cm. across the front of the right angle exposing the tendon as borne out by Ext. A-1 accident-cum-wound certificate. The Tribunal on appreciation of evidence though determined a sum of Rs. 9,900 as a just and reasonable compensation for the injury sustained by the appellant, however, non-suited him on the ground that he failed to prove any negligence on the part of the driver of the offending vehicle, viz, stage carriage bus in which he was travelling as a passenger. Aggrieved by the aforesaid order of the Tribunal the injured has preferred this appeal.

2. Having heard learned Counsel on both sides we are of opinion that the Tribunal went wrong in not granting the compensation to the Appellant on the ground that he has failed to prove negligence on the part of the driver of the offending vehicle. The Tribunal in our opinion has adopted a restricted view of the word "user" occurring in Section 110 of the Motor Vehicle Act, 1939 (for short "the Act") for negating the claim of the injured. It is in evidence that the accident took place as a result of the rear type burst of the vehicle leading to the crack of the mud-guard. The Appellant/injured was occupying a seat which is

above the mud-guard. The fact that the accident took place as a result of the tyre burst is not in dispute. Had the driver of the vehicle been careful in maintaining the vehicle he would have seen to it that the correct pressure was maintained in the tyre in which case the burst could have been avoided. The burst could have been taken place for other reasons as well, viz. the poor condition of the tyre and things like that in which event the negligence could be attributed to the driver of the vehicle attracting the jurisdiction of the Tribunal u/s 110 of the Act. jurisdiction u/s 110 is attracted if there is an accident involving death of or bodily injury to a person arising out of the use of a motor vehicle. The primary fact which, therefore, attracts the jurisdiction of the Tribunal is the use of a motor vehicle. The word "use" is used in the section in a wide sense. It covers all employments of the motor vehicles, so that whenever the vehicle is put into action or service, there is user" of the vehicle within the provisions of Section 110, whether the vehicle was being driven, or repaired or simply parked or kept stationary or left unattended. In that sense, the vehicle is used, whenever the vehicle is driven out for any purpose whatsoever. This, without anything more, is sufficient to attract Section 110. Therefore, whenever any accident occurs causing death of or injury to persons because of the vehicle or in the course of its user the jurisdiction of the Claims Tribunal is attracted. Any accident occurring in the course of the user for carriage of passengers or otherwise, is liable to be compensated through the forum provided u/s 110. The basic requirement of such claims is only that it should arise out of the use of motor vehicle whether the vehicle itself got damaged in the process or not. There is no warrant for the contention that the accident should be to the vehicle itself. All that is required is that there should be accident i.e. something unexpected and unintended and that should arise out of the user of the vehicle. Vide *Padmanabhan Nair v. Narayanikutty* 1987 (2) KLT 370 (D.B.). In this connection we cannot lose sight of the fact that we are dealing with a benevolent legislation and being a benevolent legislation it is a well known canon of interpretation that in interpreting such a legislation, the court will normally adopt an interpretation which would favour persons sought to be benefited by the legislation. Where the courts are faced with a choice between a wider meaning which carries out what appears to have been the object of the legislature more fully and a narrow meaning which carries it out less fully or not at all, they will often choose the former. (See *Maxwell on Interpretation of Statutes*, 12th Edition, Page 92). This Court as well as the apex Court has consistently adopted beneficial constructions in such situations and held that the expression "use" in Section 110 of the Act should be given a wide interpretation. Vide *Sharlet Augustine v. Raveendran* 1992 (1) KLT 795 and *Shivaji Dayanu Patil and another Vs. Smt. Vatschala Uttam More*, For the aforesaid reasons the reasoning of the Tribunal that the Appellant is not entitled to claim any amount of compensation on the ground that there is no negligence on the part of the driver of the offending vehicle cannot be sustained. Accordingly, we set aside that part of the award of the Tribunal finding that the Appellant is not entitled to get compensation on the ground that he has not proved negligence on the part of the driver of the offending vehicle and hold

that the accident has taken place as a result of the negligence on the part of the driver of the vehicle. However, we find that the tribunal has awarded a sum of Rs. 9,900 under various heads as follows:

Rs.

Transportation 200

Clothing 100

Medical expenses 500

Pain and suffering 5,000

Loss of earning for 23 days 1,000

Permanent disability etc. 2,500

Extra nourishment 600

Total 9,900

The aforesaid sum of Rs. 9,900, in our view, is a fair and reasonable compensation which is accordingly confirmed. It is made clear that the aforesaid sum of Rs. 9,900 will carry interest at the rate of 12 per cent per annum from the date of petition till realisation. The insurance company will be liable to satisfy the entire amount of compensation. Appeal allowed as above.