
(2010) 08 KL CK 0063
In the High Court Of Kerala
Case No : MACA No. 2081 of 2005

Muhammed Koya

APPELLANT

Vs

M.M. Noushad and Others

RESPONDENT

Date of Decision : 10-08-2010

Acts Referred:

Citation : (2010) 08 KL CK 0063

Hon'ble Judges : P.Q. Barkath Ali, J;A.K. Basheer, J

Bench : Division Bench

Advocate : P.K. Aboobacker, for the Appellant; Prakash P. George, for the Respondent

Judgement

A.K. Basheer, J.—Appellant is the registered owner cum driver of a jeep bearing Regn. No. KL-11B/6712, which was one of the two vehicles involved in a road traffic accident that occurred on May 2, 1997. The alleged accident occurred when the jeep referred to above collided with another vehicle (a Mini Bus bearing Regn. No. KL-7P/403).

2. The victim of the accident who sustained certain injuries filed a claim petition before the Motor Accidents Claims Tribunal. The Tribunal, after considering the oral and documentary evidence available on record, found that the drivers of both vehicles were equally negligent and responsible for the accident and accordingly directed the owners, drivers and the two insurance companies to pay the compensation.

3. The appellant who is the registered owner of one of the two vehicles (Jeep) is before us with the grievance that he has now been fastened with the entire liability to pay the compensation, since he failed to produce the insurance policy cover before the Tribunal. He has produced a photocopy of the policy before this Court. A perusal of policy cover will show that appellant's vehicle was validly insured during the relevant period with additional respondent No. 6, M/S New India Assurance Company Ltd. But it is seen from the cause title of the award

that the claimant had by mistake impleaded "M/S United India Assurance Company Ltd., Thripunithura" as the insurer of the jeep instead of New India Assurance Company Ltd. The appellant therefore filed a petition to implead M/S New India Assurance Company in this appeal.

4. Pursuant to the notice issued by this Court, the said company (additional respondent No. 6) has appeared through counsel and filed an affidavit admitting issuance of policy cover in respect of the vehicle during the relevant period. However, learned Counsel for additional respondent No. 6 submits that the company may have to be given an opportunity to find out whether such an accident had in fact taken place, since according to the learned Counsel the company was never informed about such an accident. The company has also not been able to trace out the relevant file relating to the policy in question.

5. The claimant has not entered appearance in this case though notice was served on him.

6. Having regard to the entire facts and circumstances of the case, we are satisfied that the prayer made on behalf of additional respondent No. 6 is liable to be granted. We do so. However, we make it clear that the findings entered by the Tribunal as regards quantum and also the liability of the two vehicles shall not be called in question. The case is being remanded only for the purpose of enabling additional respondent No. 6 to adduce evidence if any, as regards its liability. It will be open to the appellant and additional respondent No. 6 to adduce further evidence, if they so desire in this regard.

The Tribunal shall dispose of the matter as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment. Appellant and the two insurance companies shall appear before the Tribunal on August 30, 2010.