

(2010) 11 KL CK 0078
In the High Court Of Kerala
Case No : MACA No. 2184 of 2008

National Insurance Company Ltd.

APPELLANT

Vs

Ranjith, Ouseppachan and Johny Sebastian

RESPONDENT

Date of Decision : 09-11-2010

Acts Referred:

Citation : (2010) 11 KL CK 0078

Hon'ble Judges : M.N. Krishnan, J

Bench : Single Bench

Advocate : Rajan P. Kaliyath, for the Appellant; Pauly Mathew Muricken, for the Respondent

Judgement

M.N. Krishnan, J.—This is an appeal preferred against the award of the Claims Tribunal, Thrissur in OP(MV) No. 7/2001. The claimant while riding his motor cycle met with an accident and he is alleged to have been hit by a car which has given raise to this claim petition.

2. All the respondents filed written statements denying the involvement of the car and the police after due investigation referred the case as undetected. Neither the First Information Report nor the other documents produced could throw any light on the subject of involvement of this particular car in the accident. I am sorry to state that the learned Tribunal just made an observation as follows:

From a perusal of the records ie F.I.R, wound certificate, scene mahazer and the AMVI report in the absence of any contra evidence, it is clinchingly proved that there was an accident involving the ambassador car owned by the second respondent.

3. It has to be stated that the AMVI's report refers to the motor cycle, scene mahazer does not throw light on the involvement of the car. The First Information Report does not point out that a particular car is involved in the accident. But in spite of all these things, unfortunately the learned Tribunal

jumped to the conclusion that it was the car owned by the second respondent that had resulted in the accident. It cannot be sustained and therefore, it is set aside. When it is the situation, the learned Counsel appearing for the claimant would submit that if an opportunity is given, he would be able to throw much light on the case.

4. I find from the materials that the claimant had sustained very severe injuries in the case and therefore the benevolent legislation if confers a benefit on the claimant, it should be given to him provided he satisfies the requisites of law. Therefore I am inclined to grant an opportunity.

5. Therefore, the award under challenge is set aside and the matter is remitted back to the Tribunal with a direction to permit all concerned to produce both documentary as well as oral evidence in support of their respective contentions and then dispose of the matter in accordance with law. Parties are directed to appear before the Tribunal on 22.12.2010. If any amount is in deposit, let it not be disbursed.

Disposed of accordingly.