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(2013) 07 KL CK 0098

In the High Court Of Kerala

Case No : MACA. No. 833 of 2009 (B)

Silvi Thomas — APPELLANT

Vs

Anish @ Manoj, P.S. Pappachan and The Oriental Insurance Co. Ltd. — RESPONDENT

Date of Decision : 03-07-2013

Acts Referred:

Citation : (2013) 07 KL CK 0098

Hon'ble Judges : S. Siri Jagan, J;K. Ramakrishnan, J

Bench : Division Bench

Advocate : S. Prasanth, for the Appellant; G. Ananthanarayanan, R1-2 and Sri. M. Jacob Murickan, R3, for the Respondent

Final Decision : Dismissed

Judgement

K. Ramakrishnan, J.—The claimant in O.P. (MV) No. 6/2008 on the file of the Motor Accidents Claims Tribunal, Pala, is the appellant herein. The claimant filed an application for compensation for the damage caused to his vehicle in the accident, which has occurred on account of the negligent driving of the vehicle by the lorry driver-first respondent, owned by the 2nd respondent and insured with the 3rd respondent. After considering the evidence on record, the Tribunal found that the accident occurred due to the negligent driving of the lorry by first respondent and awarded Rs. 39,000/- as compensation to the appellant on the basis of the survey report, Ext. A11, produced by the appellant. Dissatisfied with the quantum of compensation awarded, the claimant filed the above appeal before this Court. We have considered the contentions raised by the appellant in the appeal memorandum and also heard counsel for the Insurance Company.

2. It is contended in the appeal memorandum that the Tribunal was not justified in reducing the amount assessed by the valuer in the report. On the other hand, counsel for the Insurance Company submitted that the amount awarded is just and proper. It is seen from Ext. A11 survey report that the surveyor assessed the market value of the vehicle as Rs. 50,000/- and deducting wreck value of Rs.

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12,000/-, assessed loss of Rs. 38,000/-. The Tribunal has accepted that evidence being the compensation payable for the damage caused to the vehicle. The Tribunal also awarded Rs. 1,000/- being the survey charges. In the absence of any other evidence adduced on the side of the appellant to show that he had spent more than the amount assessed by the surveyor, we do not find any reason to interfere with the amount fixed by the Tribunal as compensation for the loss sustained to the vehicle. So, the appellant is not entitled to get any enhancement and the appeal is liable to be dismissed. We do so.

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