



2025:KER:50546

MACA NO.2872 OF 2014

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

THURSDAY, THE 10TH DAY OF JULY 2025 / 19TH ASHADHA, 1947

MACA NO. 2872 OF 2014

[AGAINST THE AWARD DATED 18.01.2014 IN OP(MV) NO.561
OF 2008 OF MOTOR ACCIDENT CLAIMS TRIBUNAL/RENT CONTROL
APPELLATE AUTHORITY, IRINJALAKUDA]

APPELLANT/S:

ABDUL KHADER
S/O. MAMMED, POKKAKILLATH HOUSE, EDAMUTTOM,
KODUNGALLUR TALUK, THRISSUR DISTRICT.

BY ADV SRI.T.N.MANOJ

RESPONDENT/S:

- 1 ARUMUGAN
S/O. KOCHIKKAPARAMBIL AYYAPPAN, BAJANAMANDAPAM,
P.O. KOOLIMUTTAM, KODUNGALLUR TALUK, THRISSUR
DISTRICT, PIN - 680 664.
- 2 HAIMAVATHY
W/O. ARUMUGAN, BAJANAMANDAPAM, P.O. KOOLIMUTTAM,
KODUNGALLUR TALUK, THRISSUR DISTRICT, PIN - 680
664.
- 3 SHIBIN
S/O. ARUMUGAN, BAJANAMANDAPAM, P.O. KOOLIMUTTAM,
KODUNGALLUR TALUK, THRISSUR DISTRICT, PIN - 680
664.
- 4 SUBIN
S/O. ARUMUGAN, BAJANAMANDAPAM, P.O. KOOLIMUTTAM,
KODUNGALLUR TALUK, THRISSUR DISTRICT, PIN - 680
664.
- 5 SREEJITH



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S/O. ARUMUGAN, BAJANAMANDAPAM, P.O. KOOLIMUTTAM,
KODUNGALLUR TALUK, THRISSUR DISTRICT, PIN - 680
664.

6 SHAKEER

S/O. SUBAIR, KURIAKKATTIL HOUSE, THRIVENI DESOM,
KOOLIMUTTOM, THRISSUR DISTRICT, KODUNGALLUR
TALUK, PIN - 680 664.

7 THE MANAGER ORIENTAL INSURANCE COMPANY LTD.
KODUNGALLUR, PIN - 680 664.

8 MANJOSH

S/O. CHATHUKUTTY, KOCHIKKAPARAMBIL HOUSE,
KOOLIMUTTOM, KODUNGALLUR TALUK, THRISSUR DISTRICT,
PIN - 680 664.

9 ANSARI

S/O. ABDUL KHADER, VELUTHERI HOUSE, PALLINADA,
SANTHIPURAM DESOM, S.N. PURAM VILLAGE,
KODUNGALLUR TALUK, PIN - 680 664.

BY ADVS.
SRI.MANSOOR.B.H.
SHRI.ROY MATHEW
SHRI.N.S.NAJEEB

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 17.06.2025, THE COURT ON 10.07.2025 DELIVERED
THE FOLLOWING:

**J U D G M E N T****'CR'**

This appeal is filed by the first respondent/ registered owner of the offending vehicle, in O.P(MV) No.561/2008 on the files of the Motor Accident Claims Tribunal, Irinjalakuda. The respondents 1 to 5 herein are the claimants, who are the legal representative of deceased Sujith and respondents 6 to 9 are respondents 2 to 5 in the above OP(MV).

2. According to the claimants, on 07.09.2006, while the victim Sujith was riding motorcycle bearing Reg.No.KL-8/AK 1426 through Tippu Sultan Road, when he reached at Bhajanamadam bus stop, another motorcycle bearing Reg.No.KL-8/AJ 4127 ridden by the second respondent, in a rash and negligent manner, coming from opposite direction hit the motorcycle of the victim and thereby he sustained serious injuries and succumbed to the injuries on the same day. The legal heirs approached the tribunal claiming compensation. For the sake of convenience, the parties are hereinafter referred to as per their status in the tribunal.

3. Before the tribunal, the first, third and additional fifth respondents filed written statements separately denying the allegation that the second respondent rode the motorcycle in rash and negligent manner with excessive speed. The third respondent insurer filed a written statement, admitting the policy. Before the



tribunal, PW1 was examined and Exts.A1 to A9 were marked on the side of the claimants. Ext.B1 was marked on the side of the respondents. The tribunal, after analysing the pleadings and materials on record, found that the first respondent is the owner of the offending motorcycle, since the registration certificate was in the name of the first respondent and there was no change of ownership. It was also held that the third respondent was liable to pay compensation to the petitioners and on such payment, the third respondent was allowed to recover the amount from respondents 1 and 2, owner and driver. The tribunal awarded a total compensation of ₹3,70,810/- with interest @ 7.5% per annum. Aggrieved by the grant of right of recovery to the insurer to recover the amount from the owner, the first respondent has come up in appeal.

4. I have heard the learned counsel for the appellant/owner and the learned Standing Counsel for the insurance company. Though notice was served on the additional fifth respondent, he chose not to appear before this Court.

5. Learned counsel for the appellant herein/first respondent in O.P(MV) submitted that he was the previous owner of the offending vehicle, motorcycle bearing reg.no.KL-8/AJ 4127 ridden by the second respondent- Shakeer. It is also submitted that the



vehicle was transferred to additional fifth respondent-Ansari by the first respondent and he had produced before the tribunal an indemnity bond, jointly executed by the additional fifth respondent along with rider Shakeer in favour of the appellant undertaking to indemnify the liability of compensation which may be awarded in O.P(MV) No.561/2008. It is his case that the tribunal did not consider the indemnity bond produced and passed an award directing the appellant to compensate the claimants for the injuries sustained, for violation of policy conditions that the second respondent rider was not having a valid driving licence. The learned counsel for the appellant further submitted that the additional fifth respondent filed a written statement before the tribunal admitting that the appellant, who was the first respondent, had transferred the vehicle to his name and hence, it was the liability of the additional fifth respondent to compensate the claimant and not the appellant herein. The learned counsel also relied on the decisions reported in **Said Mohammed v. Rema** [1995 (2) KLT 343], **Rajasthan State Road Transport Corporation v. Kailash Nath Kothari and others** [(1997) 7 SCC 481] and **Sreekumar v. Abdeen and others** [2013 (3) KHC 329] and argued that though first respondent is the registered owner of the vehicle, since the additional fifth respondent has filed written



statement before the tribunal admitting that the vehicle was transferred in his name, the first respondent ought to have been exonerated from the liability.

6. The learned Standing Counsel appearing for the insurer, on the other hand, submitted that though it is contended by the appellant that the vehicle was transferred to additional fifth respondent, in the written statement, the additional fifth respondent has stated that the vehicle was again transferred to one Shafeer, who was the brother of the second respondent.

7. The learned Standing Counsel for the insurer further submitted that the registration certificate was still in the name of the appellant/the first respondent and he relied on the decision of the Apex Court in **Naveen Kumar v. Vijay Kumar and others** [2018 KHC 6083] wherein it was held that the person whose name reflected in the records of the registering authority is the owner and he is liable to compensate. The learned Standing Counsel for the insurance company submitted that the owner is held liable since there is no driving licence for the rider of the vehicle.

8. I have considered the rival contentions raised on both sides.

9. The accident occurred on 07.09.2006. The vehicle had a valid insurance policy. The tribunal directed the insurance



company to pay the amount to the claimant and then recover the said amount from respondents 1 and 2. The second respondent rider has not challenged the order passed by the tribunal. Only the first respondent/owner has challenged the order. It is the case of the appellant/first respondent that even prior to the accident, the vehicle was transferred to the additional fifth respondent. It is true that the additional fifth respondent has filed a written statement admitting that the vehicle was transferred to him by the appellant herein and it was further contended that before the accident, the vehicle was sold to another person.

10. The expression 'owner' is defined in Section 2(30) of the Motor Vehicles Act, 1988 as follows:-

"2(30) 'owner' means a person in whose name a motor vehicle stands registered and where such person is a minor, the guardian of such minor and in relation to a motor vehicle which is the subject of a hire purchase agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement."

So the person in whose name a motor vehicle stands registered is the owner of the vehicle for the purpose of the Act.

11. Section 50 of the Act deals with the procedure for transfer of ownership. It is an admitted fact that the ownership was not transferred and in the registration certificate, the



appellant's name is shown as the owner of the vehicle. The transfer of ownership did not come into effect, though, it is alleged that the vehicle was transferred to the additional fifth respondent and thereafter to a third person.

12. The Parliament has consciously introduced the definition of the expression 'owner' under Section 2(30), making a departure from the provisions of Section 2(19) in the earlier Act of 1939. The principle underlying the provisions of Section 2(30) is that the victim of a motor accident or, in the case of a death, the legal heirs of the deceased victim should not be left in a state of uncertainty. In **Naveen Kumar** (supra), it was held that for the purpose of the Motor Vehicles Act, the person whose name is reflected in the records of the registering authority is the owner and he is liable to compensate. However, the tribunal has found that since there was no valid driving licence for the rider of the motor cycle, the tribunal has fastened the liability on the registered owner and the rider of the motorcycle. I do not find any reason to interfere with the same.

13. Though the appellant had a specific case that an indemnity bond was executed by the additional fifth respondent along with rider Shakeer jointly in favour of the appellant/first respondent undertaking to indemnify the liability of compensation which may be awarded in O.P(MV) No.561/2008 and the said bond



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was produced before the tribunal, the same was not considered by the tribunal. On a perusal of the trial court records, no such indemnity bond is seen produced by the appellant herein. Hence, I am not inclined to accept the above argument.

14. The tribunal has rightly found that the insurer should pay the amount and then recover the said amount from the registered owner and driver. I do not find any reason to interfere with the same. But, I make it clear that in case the amount awarded by the tribunal is realised from the appellant/owner, the appellant can recover the said amount with interest awarded by the tribunal from the date of payment till realisation from the additional fifth respondent, through due process of law. The appeal is accordingly partly allowed.

Sd/-

**SHOBA ANNAMMA EAPEN
JUDGE**

MBS/-