



2025:KER:30627

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT**

THE HONOURABLE MR. JUSTICE EASWARAN S.

MONDAY, THE 7TH DAY OF APRIL 2025 / 17TH CHAITHRA, 1947

MACA NO. 953 OF 2021

**AGAINST THE AWARD DATED 09.12.2020 IN OPMV NO.1053 OF
2018 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, MANJERI**

APPELLANT/3RD RESPONDENT:

**UNITED INDIA INSURANCE COMPANY LIMITED
REGIONAL OFFICE, HOSPITAL ROAD,
ERNAKULAM, COCHIN-682035,
REPRESENTED BY ITS REGIONAL MANAGER.**

BY ADV JOHN JOSEPH VETTIKAD

RESPONDENT/PETITIONERS & RESPONDENT NO.1 & 2:

- 1 FASEELA
AGED 33 YEARS
W/O.SHIHABUDHEEN (LATE), PATTOLIKKAVIL HOUSE,
KUZHIMANNA P.O., ERNAD TALUK, MALAPPURAM-673641.**
- 2 MUHAMMED SINAN K.K.,
AGED 15 YEARS
S/O.SHIHABUDHEEN (LATE) AND FASEELA M.T.,
PATTOLIKKAVIL HOUSE, KUZHIMANNA P.O.,
ERNAD TALUK, MALAPPURAM-673641.**
- 3 MUHAMMED SHAMIL K.K.,
AGED 11 YEARS
S/O.SHIHABUDHEEN (LATE) AND FASEELA M.T.,
PATTOLIKKAVIL HOUSE, KUZHIMANNA P.O.,
ERNAD TALUK, MALAPPURAM-673641.**
- 4 MUHAMMED SHANVIL K.K.,
AGED 4 YEARS
S/O.SHIHABUDHEEN (LATE) AND FASEELA M.T.,
PATTOLIKKAVIL HOUSE, KUZHIMANNA P.O., ERNAD
TALUK, MALAPPURAM-673641.(RESPONDENTS 2 TO 4 ARE**



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**MINORS HENCE REPRESENTED BY GUARDIAN AND MOTHER
FASEELA).**

- 5 KUNHIPPATHUTTI,
AGED 73 YEARS
W/O. USSANKUTTY (LATE), PATTOLIKKAVIL HOUSE,
KUZHIMANNA P.O., KONDOTTY TALUK,
MALAPPURAM-673641.**
- 6 RIYAS ALI T.,
AGED 29 YEARS
S/O. MOHAMMED BASHEER, PARAMBIL HOUSE, THAVANOR
P.O., VIA KUZHIMANNA, THANIYAMPURAM, KIZHISSERI,
MALAPPURAM-679573 (RIDER OF MOTORCYCLE BEARING
REGISTRATION NO.KL-10/AU-6334).**
- 7 RIYAS ALI,
S/O. AMINA, VADAKKE KANDAM HOUSE, VADAKKEPARAMBU,
THAVANOR P.O., VIA KUZHIMANNA, MALAPPURAM-679573
(OWNER OF MOTORCYCLE BEARING REGISTRATION NO.KL-
10/AU-6334).**

**BY ADVS.
P.C.MUHAMMED NOUSHIQ
JAHANA SHERIN.K**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 07.04.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



EASWARAN S., J
.....

MACA No.953 of 2021
.....

Dated this the 7th day of April, 2025

JUDGMENT

This appeal is preferred by the Insurance Company against the award dated 09.12.2020 passed by the Motor Accidents Claims Tribunal, Manjeri, in OP(MV)No.1053/2018.

2. The brief facts necessary for the disposal of the appeal are as follows:

The legal heirs of deceased Shihabudheen approached the Motor Accidents Claims Tribunal with a claim for compensation on account of the accident that resulted in the death of Shihabudheen, while he was riding as a pillion on a motorcycle bearing Reg. No. KL-10/AU-6334. Since the facts in the present case are not disputed, it is felt that this Court could drive straight to the issues raised by the Insurance Company in the present appeal.

3. Though the Insurance Company did not dispute the



existence of a policy and also the accident, it was contended before the Tribunal that the policy in question is a liability only policy – act only policy and therefore, the Insurance Company does not have any liability to indemnify the owner. The Tribunal, on the other hand, relying on the decision of the Hon'ble Supreme Court in ***Manurakhatun and Others v. Rajesh Kumar Singh and Others*** [2017 ACJ 1031], directed the Insurance Company to pay the compensation awarded, but to recover the same from the owner. Therefore, this Court is called upon to consider the sustainability or otherwise of the aforesaid finding.

4. Heard, John Joseph Vettikad – learned counsel appearing for the appellant Insurance Company and Sri.P.C.Muhammed Noushiq – learned counsel appearing for the claimant.

5. On a consideration of the rival submissions raised across the Bar, this Court is of the considered view that the appellant is entitled to succeed.

6. Admittedly, the policy in question (Ext.B1) is only a



liability only policy. Schedule to the Policy reads as follows:

SCHEDULE OF PREMIUM (IN ₹)		
B.Basic T.P	₹	619.00
Total	₹	619.00
Add:	₹	
Compulsory PA for Owner Driver	₹	50.00
Sub Total (Additional)	₹	50.00
Gross TP(B)	₹	669.00
Total Liability Premium	₹	669.00

7. The question as to whether the Insurance Company would be liable in such circumstances was considered by this Court in ***New India Assurance Company Ltd. v. Premakumari T.K.*** [MACA No.44/2021 authored by ES(J) on 24.09.2024] and it was held that the decision of the Supreme Court in ***Manurakhatun*** (supra) can only be considered as one rendered under Article 142 of the Constitution of India and therefore, would not constitute as a binding precedent or a law declared under Article 141.

8. The facts in the present case are also similar to that decided by this Court in ***Premakumari T.K.*** (supra). Therefore, this Court is of the view that the award passed by the Tribunal directing the appellant to indemnify the owner cannot be sustained.



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Accordingly, the appeal is allowed and the award dated 09.12.2020 in OP(MV)No.1053/2018 is set aside to the extent of ordering the appellant Insurance Company to pay the amount. The claimants will be free to recover the aforesaid amount from the owner and his personal assets.

Sd/-

**EASWARAN S.
JUDGE**

ACR