



MACA No.1114 of 2021

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2025:KER:30267

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. 1114 OF 2021

AGAINST THE AWARD DATED 24.03.2020 IN O.P. (M.V) NO.1504 OF
2015 OF MOTOR ACCIDENT CLAIMS TRIBUNAL ,KOLLAM

APPELLANT/6TH RESPONDENT :

CHOLAMANDALAM GIC LIMITED
CHITTOOR ROAD, KOCHIN
NOW REPRESENTED BY ITS DEPUTY MANAGER-CLAIMS,
CHOLAMANDALAM MS GENERAL INSURANCE COMPANY LIMITED,
ACEL ESTATE,IYYATTIL JUNCTION,CHITTOOR ROAD,
KOCHI-682011.

BY ADVS.
MATHEWS JACOB (SR.)
SRI.P.JACOB MATHEW
SMT.PREETHY R. NAIR

RESPONDENTS/PETITIONER AND RESPONDENTS 1 TO 5 :

- 1 MINI C., AGED 41,
D/O.CHELLAMMA,MANJATHARA PUTHEN VEEDU,
PERUMPUZHA CHERRY,ELAMPALLOOR VILLAGE/P.O.,
KOLLAM-691504.
- 2 ATHIRA,
D/O RAVI,ATHIRA,
THEVALLY.P.O, KOLLAM, PIN-691009.
- 3 MAJESH.M,
S/O MADANAN,KAVUMPANA VAYALIL PUTHEN VEEDU,
AYATHIL.P.O, KOLLAM,PIN-691021.
- 4 THE DIVISIONAL MANAGER,
THE NEW INDIA ASSURANCE COMPANY LIMITED,
KOLLAM BRANCH,KOLLAM.P.O-691001.



- 5 ABDUL RASHEED ,
 S/O ABDUL RAHMAN ,VENTHAZHAKAM VEEDU ,
 MUTTAKKAVU ,NEDUMPANA .P.O ,
 KOLLAM , PIN-691576 .
- 6 ABDUL SALAM ,
 S/O ANAS ,KUNNUMPURATH IRSHAD MANZIL ,
 UZHAVOOR ,THRIKKOVILVATTOM .P.O ,
 KOLLAM ,PIN-691577 .

BY ADVS .
SRI .C .R .JAYAKUMAR
O .D .SIVADAS
K .SIJU

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR HEARING
ON 07.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



EASWARAN S., J.

M.A.C.A No.1114 of 2021

Dated this the 7th day of April, 2025

JUDGMENT

The appeal is preferred by the insurance company aggrieved by the decision of the Motor Accidents Claims Tribunal, Kollam in O.P.(M.V.) No.1504 of 2015.

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

On 29.10.2014 at 5.25 p.m., while the claimant was travelling in a private bus bearing registration No.KL-02 AC-8377 from west to east through Kollam - Kannanallur public road, the bus hit against a tipper lorry bearing registration No.KL-45-1842 driven by one Anas from Kannanallur-Kollam which came from the opposite direction in a rash and negligent manner. As a result of the accident, the claimant sustained serious injuries and thus she approached the tribunal in the aforesaid O.P.(M.V.). The tribunal, on appreciation of the evidence, found that the claimant is entitled



to succeed and awarded a total compensation of Rs.94,000/- (Rupees Ninety Four Thousand only). Though the insurance company attributed contributory negligence on the part of the driver of the bus and although the charge sheet prima facie pointed out negligence on the part of the driver of the bus, the tribunal, on analysis of the evidence on record, found that the driver of the tipper lorry was negligent and therefore proceeded to pass the impugned award. Since the driver of the tipper lorry did not have a valid driving licence, the insurance company was given liberty to recover the amount from the owner of the tipper lorry. It is against the aforesaid findings that the present appeal is preferred.

3. Heard Sri. P. Jacob Mathew, the learned counsel appearing for the appellant/insurance company and Sri. C.R. Jayakumar, the learned counsel appearing for the claimant.

4. Considering the rival submissions raised across the Bar, this Court is of the considered view that the present appeal has to fail for reasons to follow.

5. Admittedly, the bus was proceeding from west to east direction and that be so the vehicle is expected to proceed through the northern track of the road. The offending vehicle was proceeding from east to west. But as per Ext.A2, it would establish



that the accident occurred on the northern side of the road. On completion of investigation, Ext.A7 Final Report was filed against the driver of the tipper lorry as well as the driver of the stage carriage. It is now settled law that the final report or the charge sheet is a *prima facie* evidence regarding the negligence of the driver of the vehicle. The tribunal relied on Ext.A7 final report and held that both the driver of the stage carriage as well as the goods vehicle were negligent. But, from the available evidence, the tribunal took a slightly different view and found that unless the driver of the tipper lorry had violated the traffic rules by encroaching into the northern track of the road through which the vehicles plying from west to east are expected to proceed, the accident would have never occurred. This finding is certainly a finding on fact that cannot be said to be perverse. Though, this Court has the power to re-appreciate the evidence and find otherwise, it is pertinent to mention that the total claim involved in this case is only Rs.94,000/- and also the insurance company has been granted liberty to recover the amount. This Court is of the considered view that in such matters, the insurance company would have to take a pragmatic view and not indulge in unnecessary litigation. The interest of the insurance company is



well protected by the orders of the tribunal and considering the fact that only a meagre sum has been granted as compensation, this Court is of the view that there is no requirement to interfere with the award passed by the tribunal.

Accordingly, the appeal fails and the same is dismissed.

sd/-
EASWARAN S.
JUDGE

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