

Kerala High Court

Sreekumar.T.K vs Sabu.K.B on 18 June, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

MACA.No. 470 of 2010()

1. SREEKUMAR.T.K, S/O.THANKAPPAN,
... Petitioner

Vs

1. SABU.K.B, S/O. BABU,
... Respondent

2. THE NATIONAL INSURANCE CO.LTD.,

For Petitioner :SRI.P.V.BABY

For Respondent :SRI.JOSHY THANNICKAMATTAM

The Hon'ble MR. Justice M.N.KRISHNAN

Dated :18/06/2010

O R D E R

M.N. KRISHNAN, J.

.....
M.A.C.A.NO.470 OF 2010

.....
Dated this the 18th day of June, 2010.

J U D G M E N T

This is an appeal preferred against the award of the Claims Tribunal, Ernakulam in OP(MV)No.2205/2002. The claimant, a pillion rider, sustained injuries in a road accident and the Tribunal has awarded a compensation of Rs.32,500/= and exonerated the insurance company from the liability on the ground that no additional premium is paid for coverage of pillion rider. Against that, the claimant has come up in appeal.

2. It is true that when it is only an Act only policy, the person travelling in a two wheeler will have only the status of a gratuitous passenger and he cannot be covered by the conditions of the policy

unless wider premium is paid. In this case policy is a comprehensive policy. But in the case of comprehensive or package policy, by virtue of a clarificatory circular issued by the Insurance Regulatory and Development Authority dated 16.11.2009, it is made clear that persons travelling in a two wheeler and in a private vehicle are covered under the terms and conditions of the standard motor package policy. The conditions of comprehensive/package M.A.C.A.NO.470 OF 2010 policy were considered by the two Division Bench decisions of this Court in the decisions reported in New India Assurance Co. Ltd. v. Hydrose (2008 (3) KLT 778) and in Mathew v. Shaji Mathew (2009 (3) KLT 813). Interpreting the conditions, the court held that since terms and conditions of the policy cover the risk of pillion rider, no additional premium was necessary.

3. So, in the light of the clarificatory circular and the decisions of this Court, comprehensive policy will cover the risk of pillion rider and therefore exoneration of the insurance company from the liability is not correct and therefore it requires interference.

4. So, the appeal is allowed and exoneration of the insurance company from the liability is set aside. It is directed to deposit the amount awarded, but it shall not be liable for the interest from 24.3.2008 to 4.3.2010. The deposit shall be made within a period of 60 days from the date of receipt of a copy of this judgment.

Disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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