



2023/KER/55344

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 11TH DAY OF SEPTEMBER 2023 / 20TH BHADRA, 1945

OP (MAC) NO. 111 OF 2023

AGAINST THE ORDER/JUDGMENT OPMV 871/2020 OF MOTOR ACCIDENT CLAIMS

TRIBUNAL VADAKARA

PETITIONERS:

1 SMITHA T.T.

[REDACTED]

2 DEVANANDA
AGED 13 YEARS

[REDACTED]

3 HARTDEV

[REDACTED]

4 PADMAVATI

A
V
M
K
[REDACTED]

5 PADMANABHAN

[REDACTED]



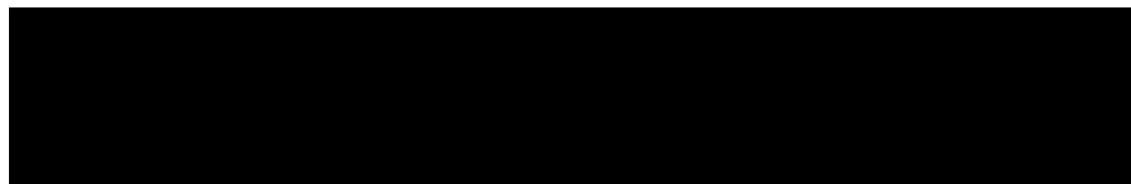
BY ADVS.
ZUBAIR PULIKKOOOL
ARSHID.M.S.
ARUNKUMAR P.(K/000589/2018)

RESPONDENTS:

1 SREEROOP.V



2 SRENESH.V



THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 11.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



DINESH KUMAR SINGH, J.

OP (MAC) NO. 111 OF 2023

Dated this the 11th day of September, 2023

J U D G M E N T

1. This Original Petition has been filed challenging Ext.P3 Order in I.A. No. 01 of 2022 in O.P. (M.V) No. 871 of 2020, on the file of the Motor Accident Claims Tribunal, Vatakara.

2. A Practicing Lawyer at Vatakara Bar Association met with an accident on 22.01.2020 at around 7.30 P.M when the deceased was going to his house on a scooter from his office. As soon as the diseased reached near Nut Street Junction, Vatakara, an Enfield Bullet owned by the 1st respondent and driven by the 2rd respondent rammed the scooter and thereafter, the deceased sustained serious head injury and he died on 05.02.2020.



3. The dependents or the legal heirs have filed claim petition in O.P.(M.V) No. 871 of 2022. At the period that the accident occurred, the vehicle was not insured and therefore, the owner and the driver of the vehicle are responsible for this accident.

4. The I.A. No. 01 of 2022 in O.P.(M.V) No. 871 of 2020 was filed to implead Regional Transport Officer, Vatakara as respondent No. 3 in the said claim petition. The ground on which the impleadment was sought is that, it was the duty of the R.T.O to see that the uninsured vehicle did not ply on the road and therefore, the R.T.O failed to discharge his statutory function. The learned Tribunal had rejected the said petition by Ext. P3 Order. It has been held under section 163 A of Motor Vehicles Act, 1988, the owner of the motor vehicle or the insurer shall be liable to pay compensation to the victim. The first liability is upon the owner of the vehicle. Since the owner has insurance policy, the vehicle insurer is liable to pay the



compensation. The R.T.O or the District Collector is not necessary to settle the claim.

4. I find no reason for interfering with rejection order by the Motor Accidents Claim Tribunal. The primary responsibility is of the motor vehicle owner to get insured the motor vehicle. In case, if the motor vehicle owner fails to get the motor vehicle insured, the liability for payment of compensation would not fall upon to the registration authority. It means that the responsibility is of the owner alone or the driver or both to make payment of the compensation for the accident.

5. The present Original Petition challenging the said order is hereby dismissed.

Sd/-

DINESH KUMAR SINGH
JUDGE



APPENDIX OF OP (MAC) 111/2023

PETITIONER'S EXHIBITS

- Exhibit P1 THE TRUE COPY OF THE CLAIM PETITION IN O.P. (M.V) NO. 871/2020 ,ON THE FILE OF THE MOTOR ACCIDENT CLAIM TRIBUNAL VATAKARA DATED 20.08.2019.
- Exhibit P2 TRUE COPY OF THE AFFIDAVIT FILED IN SUPPORT OF I.A. 1/2022 INO.P.(M.V) NO. 871/2020 ,ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL VATAKARA DATED 20.09.2022.
- Exhibit P3 TRUE COPY OF THE ORDER IN I.A. 1/2022 IN O.P. (M.V) NO. 871/2020 ,ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL VATAKARA DATED 19.11.2022.

RTO Cannot Be Made Liable To Pay Compensation For Accident Of Uninsured Vehicle: Kerala High Court

Counsel for the Petitioner:

Counsel for the respondents:

Citation: 2023 LiveLaw (Ker)

Case title:

Case number:

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