



RSA NO. 449 OF 2026

1

2026:KER:78477

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

TUESDAY, THE 13th DAY OF OCTOBER 2026 / 21st ASWINA, 1948

RSA NO. 449 OF 2026 (C)

AGAINST THE JUDGMENT & DECREE DATED 20.12.2025 IN AS
NO.12 OF 2023 OF SUB COURT, SULTHANBATHERY ARISING OUT OF
THE JUDGMENT & DECREE DATED 31.03.2021 IN OS NO.114 OF 2018
OF MUNSIF COURT, KALPETTA

APPELLANT/APPELLANT/DEFENDANT:

- 1 THE STATE OF KERALA REP BY DISTRICT COLLECTOR,
WAYANAD, NORTH KALPETTA P O, PIN - 673122
- 2 DIVISIONAL FOREST OFFICER,
SOUTH WAYANAD DIVISION, PINANGODE ROAD,
KALPETTA P O, PIN - 673122
- 3 FOREST RANGE OFFICER,
THARIODE FOREST, POZHUTHANA VIA,
THARIODE AMSOM DESOM, VYTHIRI TALUK,
WAYANAD DISTRICT, PIN - 673121

BY SR.GOVERNMENT PLEADER SRI. KANNAN M.

RESPONDENT/RESPONDENT/PLAINTIFF:

SEBASTIAN @ SABU V K,
S/O KURIAN, VENGACHUVATTIL HOUSE,
THARIODE P O, POZHUTHANA VIA,VYTHIRI TALUK,
WAYANAD DISTRICT, PIN - 673575

CNR : KLHC010538002026



RSA NO. 449 OF 2026

2

2026:KER:78477

BY ADVS. SHRI.MITHUN P.
SMT.MERIN THOMAS
SHRI.SUMEEN S.

THIS REGULAR SECOND APPEAL HAVING BEEN FINALLY HEARD
ON 07.10.2026, THE COURT ON 13.10.2026 DELIVERED THE
FOLLOWING:



JUDGMENT

The appellants are the defendants in O.S. No.114 of 2018, a suit for damages before the Munsiff's Court, Kalpetta, and the appellants in A.S. No. 12 of 2023 before the Sub Court, Sulthanbathery. They challenge the concurrent findings/judgment/decreed against them.

2. The plaintiff, an agriculturist residing at Thariode, alleged that at about 6.00 a.m. on 05.07.2017, as he came out of his house to milk his cow, three wild elephants from the forest charged at and trampled him, causing serious injuries, including multiple fractures. He was admitted to Baby Memorial Hospital, Kozhikode, from 05.07.2017 to 19.07.2017 and underwent surgery. He claimed to have spent Rs.2,50,000/- on surgery and a further Rs.2,50,000/- on other medical expenses. He immediately reported the incident to the third defendant, who visited him and paid Rs.75,000/- as



emergency relief, while leading him to believe that the remaining expenses would be reimbursed. No further payment was made.

3. The plaintiff sent notices to the defendants. Defendants 1 and 2 accepted the notices and replied that they had recommended further compensation to the Government, including Rs.5,00,000/- from the Chief Minister's Distress Relief Fund, but the third defendant rejected the claim. The plaintiff alleged that the attack left him permanently disabled, unable to undertake work requiring physical skill, and with his left leg shorter than his right. He attributed the incident to the defendants' failure to provide proper electric fencing and trenches where forest land meets private property. He accordingly sought Rs.8,00,000/- with interest at 12% per annum, jointly and severally from the defendants.

4. Defendants 2 and 3 did not dispute that the plaintiff was injured in a wild-elephant attack. They contended that the Rs.75,000/- paid was the maximum compensation payable under the Kerala Rules for Payment of Compensation to Victims of Attack by



Wild Animals, 1980, and Government Order No. 32/13/F&WLD dated 22.03.2013. They had recommended further compensation to the Government and were awaiting its decision, as defendant 1 alone could sanction more than Rs.75,000/-. They denied having control over wild animals but maintained that they had taken all measures humanly possible to prevent attacks on people living near forests. They sought dismissal of the suit with costs.

5. The trial court considered whether the plaintiff was entitled to compensation and, if so, its amount. It held that the compensation scheme did not bar a victim from seeking damages in a civil court if the prescribed compensation was inadequate. Applying the principles of strict liability, the trial Court appreciated the evidence of PW1 regarding the absence of trenches or fencing, while DW1's assertion that solar fencing existed was unsupported by documents. The defendants neither produced evidence of the fencing nor sought an inspection by an Advocate Commissioner.

6. By judgment dated 31.03.2021, the trial Court partly



decreed the suit for Rs.5,37,030/- with interest at 8% per annum from the date of suit until realisation. The award comprised Rs.1,20,000/- for loss of earnings; Rs.2,000/- for clothing and transport; Rs.3,750/- for bystander expenses; Rs.3,000/- for extra nourishment; Rs.1,24,280/- for medical expenses; Rs.50,000/- for pain and suffering; and Rs.2,34,000/- for permanent disability.

7. Though the defendants filed an appeal, the same was dismissed by the Sub Court on 20.12.2025. The appellate Court relied on the decision in ***State of Kerala v. V.V. George*** [2017 (3) KHC 882] and held that the compensation rules did not expressly or impliedly bar a civil action and that the State and its officers could be liable under the doctrine of strict liability. Although DW1 stated that solar fencing, trenches and a wall had been provided and watchers appointed, no supporting evidence was produced. The Court therefore found the plaintiff's allegation of negligence probable and did not interfere with the amount awarded by the trial Court.

8. In this second appeal, the appellants framed the following



questions: whether the courts below erred in applying strict liability to injuries caused by wild animals freely roaming in a forest, when the animals were not owned or possessed by the State; whether **V.V. George** (supra) was applicable in the absence of the same factual basis; and whether persons living or working near forests must take reasonable care to protect themselves from wild-animal attacks. The appellants argued that the strict-liability or scienter rule for *ferae naturae* applies only where a wild animal is kept in a tortfeasor's custody and escapes. Animals roaming freely in forests are not in the State's custody or control, and the State cannot be held liable for their entry into non-forest areas. They further contended that it is unjust and practically impossible to require the State to prevent every such attack by fencing the entire forest or controlling all wild animals; such incidents are akin to accidents, force majeure or acts of God.

9. Learned Government pleader submitted that **V.V. George** (supra) could apply only where the State owned, possessed or had



custody of the animal, and that the said judgment must be held as per incuriam for not considering the decision in ***Centre for Environment Law, World Wide Fund India v. Union of India (UOI) and Ors.*** [(2013) 8 SCC 234]. That decision, it is argued, held that no State, organisation or person can claim ownership or possession of wild animals in forests, which are the property of the nation. The appellants also contended that people living or working near forests must take reasonable precautions themselves and that a scheme providing gratuitous payments for injuries or deaths caused by wild animals does not amount to an admission of State liability.

10. The argument of the learned counsel based on the judgment in ***Centre for Environment Law*** (supra) cannot be accepted for more reasons than one. The said judgment held that no State, Organization or person can claim ownership or possession over wild animals in the forest and was made to explain the legal status of wildlife and the State's obligation to conserve it. It was not a pronouncement that the State is immune from liability for damage



caused by wild animals. The absence of ownership or physical custody of wild animals does not, by itself, exclude the application of the doctrine of strict liability. The question of liability must be determined with reference to the nature of the activity, the legal obligations of the State and the principles governing the compensation claim.

11. The judgment in *V.V. George* (supra) considered the State's liability for the damage caused to private property by wild animals straying out of a reserve forest and held that the absence of a specific plea of negligence did not, in the circumstances of that case, defeat the claim. Since both these judgments are rendered in different contexts, it has to be understood that though the State does not own wild animals as private property, nevertheless, it has a statutory and public duty concerning the protection and management of wildlife. Whether a breach of those duties or the application of an independent principle of liability gives rise to a claim for damages is a distinct question. The absence of ownership



or custody cannot be treated as a complete answer to that question. There is no inconsistency between the judgments in *V.V. George* (supra) and *Centre for Environment Law* (supra). Under such circumstances, the contention of the learned Government Pleader cannot be accepted and is hereby rejected.

12. It is undisputed that the plaintiff was attacked by three elephants at his residence in Thariode on 05.07.2017 and sustained permanent disability. The appellants' contention that the State cannot be held liable is unacceptable. Reserve forests are State property, and the State has a duty to protect wildlife. Article 48-A of the Constitution directs the State to protect and safeguard wildlife, while the Wild Life (Protection) Act, 1972, seeks to protect wild animals, birds and plants and secure the country's ecological and environmental security. The State is therefore responsible for balancing wildlife protection with its constitutional obligation to protect citizens' fundamental rights, including the right to life under Article 21. It must take reasonable measures to prevent



human-wildlife conflict and protect human habitations and agricultural properties. Citizens may claim compensation for harm caused by wild animals, whether or not their claims are expressly covered by a Government order, scheme or provision.

13. The State's duty is one of reasonable care; it is not a requirement to fence the entire forest. It must provide appropriate fencing near human habitations. In the instant case, the plaintiff was attacked at his residence. Sections 9 and 11 of the Wild Life (Protection) Act, 1972, prohibit hunting, and the limited permission to kill an animal in self-defence applies to an attack on a person, not to protect property. The State cannot shift to citizens the burden of protecting their property from wild-animal attacks when they are prohibited from taking such measures themselves. Here, moreover, the defendants produced no documents or other evidence to substantiate their assertions that they had installed solar fencing, dug trenches, constructed a wall or appointed watchers. The Courts below were therefore justified in finding negligence. There is no



challenge to the quantum of compensation awarded.

14. Regarding the contention of the appellants that the compensation for a victim of a wild animal attack is governed by the Kerala Rules for Payment of Compensation to Victims of Attack by Wild Animals, 1980, and the relevant orders, and the maximum payment as per the rule is Rs.75,000/- and that was already paid to the plaintiff and thus the appellants have discharged their liability, and the plaintiff cannot claim an amount in excess of the statutory limit through a civil suit, cannot be accepted. A similar set of facts and questions of law has been discussed in ***Wildlife Warden and Ors. v. Thadathil Saramma and Ors.*** , [2026 (6) KHC 53], where it was held by this court that;

19. xxxxxxxxxxxxxxxx As regards the contention based on the Kerala Rules for Payment of Compensation to Victims of Attack by Wild Animals, 1980, it is relevant to note that the said Rules prescribe the quantum and procedure for payment of compensation to victims of wild animal attack. It is formulated for expeditious ex gratia relief. However, the existence of such a welfare



scheme cannot be construed as the sole and exclusive remedy available to a citizen who suffers loss of life or injury due to attacks by wild animals. The right to claim just and adequate compensation for such loss of life or injury is traceable to Article 21 of the Constitution and to the common law principle of strict liability. These are substantive rights which exist independent of any executive scheme. The quantum prescribed in the 1980 Rules is only the minimum payable by the State as ex gratia. It cannot fetter the power of the courts to determine or enhance the compensation to make it reasonable with the actual loss, pain and suffering of the claimant. Accordingly, the trial court was well within its jurisdiction to assess the damages and to award compensation higher than that provided under the Rules. The existence of the Rules only provides a floor. The Courts are duty-bound to ensure that the compensation awarded is just, fair and reasonable and commensurate with the nature and extent of the injury suffered. The compensation must reflect the true value of the loss occasioned, for the worth of a human life cannot be reduced to a figure that fails to adequately recognise the magnitude of the loss.



Thus, in the light of the above dictum, there is no bar to a victim of attack by a wild animal in approaching a civil court for damages when the maximum compensation stipulated under the said rules is, according to him, insufficient or meagre.

Given the above, no interference is warranted under Section 100 of the Code of Civil Procedure. The Regular Second Appeal is dismissed.

Sd/-

MOHAMMED NIAS C.P.

JUDGE

DMR/-

Judgment reserved	07/10/26
Date of Judgment	13/10/26
Judgment dictated	08/10/26
Draft judgment placed	09/10/26
Judgment corrected	13/10/26
Final judgment uploaded	13/10/26