

(2023) 06 KL CK 0429

High Court Of Kerala

Case No: Motor Accident Claims Appeal No.1565 Of 2008

Vasanth Kumari

APPELLANT

Vs

Ramachandran

RESPONDENT

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**Date of Decision:** June 30, 2023**Hon'ble Judges:** C.Jayachandran, J**Bench:** Single Bench**Advocate:** Harish Gopinath, Pratheesh.P, Panicker V.P.K., Anjana Kannath**Final Decision:** Allowed

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### Judgement

C.Jayachandran, J

1. The 4th respondent in O.P(M.V).No.1309/2001 of the Motor Accident Claims Tribunal, Kollam, jointly tried along with O.P(M.V).No.1151/2001, is

the appellant herein. The award under challenge is dated 04.08.2007, which is a common award passed in the original petitions afore-referred. By

virtue of the award impugned, the Tribunal directed the third respondent/insurance company to compensate the petitioners/claimants at the first

instance and to recover the same from the 4th respondent, who was deemed to be owner of the vehicle involved in the accident. The compass of the

appeal is quite narrow, to the effect that appellant/4th respondent was not the owner of the vehicle as on the date of accident and that, it was the first

respondent by name Asraf Khan, who was the owner at the relevant time, wherefore, the compensation is liable to be recovered from him; and not

from the 4th respondent/ appellant. Appellant produced Ext.A7 registration particulars, which indicates that she became an owner of the vehicle

concerned only with effect from 25.11.2000. However, that endorsement is seen handwritten, as against the other endorsements which are printed.

To obviate the ambiguity, the appellant had produced before this Court a reply under the Right to Information Act dated 01.03.2023, along with

I.A.No.1/2023 as Annexure-A1 to receive the additional document/evidence. Annexure-A1 specifically indicates that as per the records, the

registered owner of the vehicle in question as on 12.11.2000, the date of the accident, is the said Asraf Khan, who is the first respondent before the

Tribunal and 5th respondent herein. There is no representation for the 5th respondent before this Court, although he was served by effecting paper publication.

2. Heard the learned counsel for the appellant and learned counsel for the 6th respondent/insurance company. Learned counsel for respondents 1 to 4, who were the claimants before the Tribunal, was also heard.

3. As rightly pointed out by the learned counsel for the appellant, the R.T.O. concerned was examined before the Tribunal as DW2, who would vouch

the fact that the first respondent - Asraf Khan - was the registered owner of the vehicle as on the date of accident. This evidence has been reiterated

by Ext.A1 reply produced before this Court, as also, in the entry in Ext.B7 document produced before the Tribunal.

4. Going by S.2(30) of the Motor Vehicles Act, 1988, 'owner' means the person in whose name a motor vehicle stands registered. In as much as

categoric evidence has been adduced before this Court, as also before the Tribunal, that the registered owner as on the date of accident was 5th

respondent herein, this Court is inclined to allow the M.A.C.A. by directing the recovery of the compensation amount by the 6th respondent/insurance

company from the 5th respondent/ Asraf Khan, in substitution of the direction of the Tribunal for recovery from the appellant herein [4th respondent before the Tribunal].

M.A.C.A. is allowed as indicated above.