



MACA NO. 2847 OF 2014

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

WEDNESDAY, THE 27TH DAY OF AUGUST 2025 / 5TH BHADRA, 1947

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AGAINST THE AWARD DATED 26.10.2013 IN OP(MV) NO.1175 OF 2011 OF
MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM

APPELLANT/1ST RESPONDENT :-

ANOOP PAUL, AGED 32 YEARS
S/O. PAULOSE, AINIKKUDIYIL HOUSE, EZHAKKARANADU
SOUTH P.O., MANEED VILLAGE, ERNAKULAM, PIN:682 308.

BY ADVS.
SRI.SAJI MATHEW
SHRI.AVINASH K.KRISHNAN
SRI.DENU JOSEPH

RESPONDENTS/PETITIONER & RESPONDENT NO.2 :-

- 1 M.P.CHERIAN, AGED 62 YEARS
S/O PAILY MATHAI, MOOLAMKUZHIYIL HOUSE,
CHETHIKKODE P.O., KANJIRAMATTOM,
ERNAKULAM, PIN:682 315.
- 2 THE UNITED INDIA INSURANCE COMPANY LIMITED
DIVISIONAL OFFICE, JOSE TRUST BUILDING,
CHITTOOR ROAD, ERNAKULAM, COCHIN-682035.

BY ADVS.
SRI.ANIL S.RAJ
SMT.K.SHERIN MOHAN
SHRI.AGINOV MATHAPPAN

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SHRI.P.JACOB MATHEW
SMT.ANILA PETER
SMT.C.PRABITHA
SMT.K.N.RAJANI
SMT.RADHIKA RAJASEKHARAN P.
SRI.J.VIVEK GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 01.08.2025, THE COURT ON 27.08.2025 DELIVERED THE
FOLLOWING:



“CR”

JUDGMENT

This appeal is filed by the 1st respondent/owner in O.P (MV) No.1175 of 2011 on the file of the Motor Accidents Claims Tribunal, Ernakulam. The respondents herein are the petitioner and the 2nd respondent before the tribunal.

2. According to the claimant, on 17.12.2010 at about 11.30 am, while the claimant was walking along the side of the road, a JCB bearing registration No.KL-17-C-5708 driven by the 1st respondent was operated in a rash and negligent manner and the bucket of the JCB hit on the right leg of the claimant. As a result of the accident, the claimant had sustained serious injuries. The claimant approached the tribunal claiming a total compensation of ₹3,00,000/-.

3. The 1st respondent, driver of the offending JCB, remained *ex parte* before the tribunal. The 2nd respondent, insurer of the offending JCB, filed a written statement admitting the policy but disputing the quantum of compensation claimed as well as the narration of accident. Before the tribunal, PW1 was examined and Exts.A1 to A8 were marked.

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The tribunal, after analysing the pleadings and materials on record, awarded a sum of ₹66,000/- as compensation under different heads with interest @8% per annum from the date of petition till realization with proportionate costs from 1st respondent, owner cum driver, on the finding that the accident occurred in a private place, the insurance company is not liable to pay the compensation. Challenging the award passed by the tribunal directing the owner to pay compensation amount awarded by the tribunal, the first respondent, owner cum driver, has come up in appeal.

4. The learned counsel for the appellant/owner submitted that the accident occurred while the JCB was being used in the property belonging to the father of the petitioner in connection with some works in the rubber plantation. It is further submitted that the finding of the tribunal that the accident occurred in a private place and directing the appellant to pay the compensation is erroneous on the basis of the judgments of this Court in **Rajan P v. K.J.John and others** [2009 (1) KHC 631] and **Parukutty and others v. K.P.Joseph and others** [2015 KHC 3701], wherein the definition of the public place has been widened,



for the private places where there is entry to the public vehicles. The learned counsel for the appellant also argued that the insurance policy was issued by the insurer for the construction equipment vehicle which is meant for construction purposes. Since the vehicle was used in the rubber estate for the purpose of digging holes, and as the vehicle had access into the property, the rubber plantation is also to be treated as a public place.

5. The learned counsel for the 1st respondent/claimant submitted that the accident occurred on 17.12.2010 while he was walking along the side of the road adjacent to the property belonging to his father, which was a rubber estate. Ext.A4 charge sheet was drawn against driver of the JCB, It is further submitted that while he was standing at the junction of a public road and his father's property, the bucket of the JCB driven by the 1st respondent hit his right leg and resulting in fracture on right clavicle, fracture on 4th rib right and abrasion on right forehead and right leg.

6. The learned standing counsel appearing for the 2nd respondent/insurance company submitted that as per Ext.A2 scene



mahazar, the accident had taken place in a rubber plantation. Since the accident was not on a public road, the insurance company is not liable to pay any compensation for the injuries sustained to the claimant.

7. Heard the learned counsel for the appellant, the learned counsel appearing for the claimant and the learned standing counsel appearing for the insurance company.

8. The fact that the injury sustained by the hit of the bucket of the JCB is not disputed. The dispute is in respect of the place where the accident occurred. According to the claimant, the accident occurred at the junction of the road and the property whereas the insurer contends that it happened while the claimant was standing inside the private property.

9. The public place is defined in the Motor Vehicles Act, 1988 as follows :-

Section 2(34) : public place as including any road, street, way, and other places, whether thoroughfares or not, to which the public has a right of access. It also specifically includes any location or stand where passengers are picked up or dropped off by a stage carriage



10. This Court in **Rajan P** (supra) had considered a similar issue wherein the injury was sustained to a headload worker while the marble was being unloaded in the house premises of a person. This Court held that public place for the purpose of the Act is to be understood with reference to places to which a vehicle has access and whether the public actually has access thereto is of no consequence. The JCB involved in this case is also a commercial vehicle. Since the JCB was engaged for work within the property belonging to the claimant's father and as the vehicle had access to the said property, the insurer cannot contend that it was not a public place and they are not liable to pay the amount, irrespective of the fact whether the accident occurred inside or outside the property. The question whether the accident occurred outside or inside the property has no relevance since JCB, a commercial vehicle, was used for work and it had access to the property. The Ext.A1 FIR reveals that the injuries were sustained due to the hit by the bucket of the JCB. Hence, I find that the 2nd respondent/insurance company being the insurer of the vehicle is liable to pay compensation. The finding of the tribunal exonerating the liability of the insurer is liable to

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be set aside.

Accordingly, the appeal is allowed. The finding of the tribunal directing the appellant/1st respondent/owner to pay the compensation amount is hereby set aside. The 2nd respondent/insurer is directed to pay the entire compensation awarded by the tribunal.

SD/-

**SHOBA ANNAMMA EAPEN
JUDGE**

SMA