

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 3433/2020

(Arising out of impugned final judgment and order dated 25-10-2019 in MACA No. 204/2016 passed by the High Court Of Kerala At Ernakulam)

MOHANA KRISHNAN S

Petitioner(s)

VERSUS

K. BALASUBRAMANIAM & ORS.

Respondent(s)

WITH

SLP(C) No. 10928/2020 (XI-A)

Date : 25-08-2022 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE VIKRAM NATH

For Petitioner(s) Mr. Amit Kumar Singh, AOR
Mrs. K. Enatoli Sema, Adv.
Ms. Chubalemla Chang, Adv.

Mr. M. Gireesh Kumar, Adv.
Mr. Ankur S. Kulkarni, AOR
Ms. Pushita Basak, Adv.

For Respondent(s) Mr. M. Gireesh Kumar, Adv.
Mr. Ankur S. Kulkarni, AOR
Ms. Pushita Basak, Adv.

Mr. Amit Kumar Singh, AOR
Mrs. K. Enatoli Sema, Adv.
Ms. Chubalemla Chang, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

Learned counsel for the insurance company relies upon two judgments of this Court reported as 2006 (4) SCC 404 and 2008 (7) SCC 428 to contend that a pillion rider on a motorcycle is not a third party, therefore, the insurance company is not liable to

indemnify the insured on account of the injuries or death of such pillion rider.

The basis of the said argument is Indian Motor Tariff Endorsement No. 70, which is to the effect that in "Act Only" policy, the insured has to pay extra premium to cover the pillion rider.

However, the question as to whether the third party includes all other persons other than the insured, who is the first party and the insurer, who is the second party. Therefore, all other persons who are neither the insured nor the insurer will be third party and will be covered by the Act Only policy, we have prima facie reservation about the view expressed. Such question is required to be determined authoritatively.

Therefore, the Registry to place the matter before Hon'ble The Chief Justice of India to constitute a larger bench to consider the question of law as mentioned above by an appropriate Bench.

(HARSHITA UPPAL)
SENIOR PERSONAL ASSISTANT

(RENU BALA GAMBHIR)
COURT MASTER (NSH)