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Fourteenth Kerala Legislative Assembly
Bill No. 113

THE KERALA HIGH COURT (AMENDMENT) BILL, 2018

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BILL

further to amend the Kerala High Court Act, 1958.

Preamble.—WHEREAS, it is expedient further to amend the Kerala High Court Act, 1958 for the purposes hereinafter appearing;

BE it enacted in the Sixty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala High Court (Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 15th day of December, 2017.

2. *Amendment of section 3.*— In the Kerala High Court Act, 1958 (5 of 1959) (hereinafter referred to as the principal Act), in clause (13) of section 3,—

(i) in sub-clause (b), for the words “one lakh rupees”, the words “forty lakh rupees” shall be substituted;

(ii) after sub-clause (g), the following sub-clause shall be inserted, namely:—

“(h) from an award passed by the Motor Accidents Claims Tribunal.”

3. *Special provision in respect of pending appeals, suits and other proceedings.*—Notwithstanding anything contained in the principal Act or any other law for the time being in force, or in any judgment, decree or order of any court, the provisions of sub-clauses (b) and (h) of clause (13) of section 3 of the principal Act as amended by this Act shall apply to all suits, appeals and other proceedings and the applications for compensation under the Motor Vehicles Act, 1988 (Central Act 59 of 1988), as the case may be, instituted prior to

the date of commencement of this Act and are pending disposal and all appeals pending before a Bench of two Judges of the High Court as on the said date, where the amount or value of the subject matter of suits or other proceedings involved does not exceed forty lakh rupees, and all appeals from the awards passed by the Motor Accidents Claims Tribunals, shall be transferred to, and disposed of by the Single Judge:

Provided that the said provision shall not apply to appeals pending before a Bench of two Judges under section 5 of the principal Act.

4. Repeal and saving.—(1) The Kerala High Court (Amendment) Ordinance, 2018 (3 of 2018) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Under sub-clause (b) of clause (13) of section 3 of the Kerala High Court Act, 1958 (5 of 1959), the power of the High Court to hear appeals from original decree or order in any suit or other proceedings, where the amount or value of the subject matter of the suit or other proceedings does not exceed one lakh rupees, can be exercised by the Single Judge of the High Court. The appellate pecuniary limit of the Single Judge was enhanced to one lakh rupees as early as in 1989 by the Kerala High Court (Amendment) Act, 1989 (36 of 1989).

2. As per the Kerala Civil Courts (Amendment) Act, 2013 (26 of 2013), Sections 11 and 13 of the Kerala Civil Courts Act, 1957 (1 of 1957) have been amended and the pecuniary jurisdiction of the Munsiff's Court based on value of the subject matter of the suit has been enhanced from one lakh rupees to ten lakh rupees and the appellate jurisdiction of the District Court and the Subordinate Judge's Court, based on value of the subject matter of the suit, have been enhanced from two lakh rupees to twenty lakh rupees. But, the pecuniary jurisdiction of the Single Judge of the High Court was not enhanced. On the basis of the proposal of the Hon'ble High Court of Kerala, the Government have decided to enhance the appellate pecuniary jurisdiction of the single Judge from one lakh rupees to forty lakh rupees.

3. The Hon'ble High Court has pointed out that at present appeals arising from the awards passed by the Motor Accidents Claims Tribunals, the value of which is above one lakh rupees, is heard by a Bench of two Judges and proposed that the Single Judge shall be empowered to hear all appeals arising from the awards passed by the Motor Accidents Claims Tribunals, irrespective of the value of appeal.

4. In view of the judgment of the Hon'ble High Court of Kerala in *Valsala Vs. Sarojini Prabhu* [ILR 2014(3) 284], in order to tide over the situation that may arise when there is a change of forum for appeal, the Government have also decided to make a special provision so that the provisions of the principal Act as amended by this Bill shall apply to all suits, appeals, and other proceedings and applications for compensation under the Motor Vehicles Act, 1988 (Central Act 59 of 1988), as the case may be, instituted prior to the date of commencement of the amendment Act, pending disposal and also to enable the transfer of pending appeals before a Bench of two Judges where the value of the subject matter does not exceed forty lakh rupees and all appeals from the awards passed by the Motor Accidents Claims Tribunals to the Single Judge.

5. As the Legislative Assembly of the State of Kerala was not in session and the above proposals had to be given effect to immediately, the Kerala High Court (Amendment) Ordinance, 2017 was promulgated by the Governor of Kerala on the 14th day of December, 2017 and the same was published as Ordinance No. 30 of 2017 in the Kerala Gazette Extraordinary No. 2744 dated 15th December, 2017.

6. Though a Bill to replace the said Ordinance by an Act of the State Legislature was published as Bill No.87 of the Fourteenth Kerala Legislative Assembly, the same could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of January, 2018 and ended on the 7th day of February, 2018. As the provisions of the said Ordinance are to be kept alive and the State Legislative Assembly was not in session, the Kerala High Court (Amendment) Ordinance, 2018 (3 of 2018) was promulgated by the Governor of Kerala on the 12th day of February, 2018 and published as Ordinance No.3 of 2018 in the Kerala Gazette Extraordinary No. 335 dated 12th February, 2018.

7. The Bill seeks to replace Ordinance No.3 of 2018 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

PINARAYI VIJAYAN

EXTRACT FROM THE KERALA HIGH COURT ACT, 1958

(ACT 5 OF 1959)

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3. *Powers of Single Judge.*—The powers of the High Court in relation to the following matters may be exercised by a Single Judge, provided that the Judge before whom the matter is posted for hearing may adjourn it for being heard and determined by a Bench of two Judges:—

(1) Determining in which of several courts having jurisdiction a suit shall be heard.

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(13) An appeal,—

(a) from a judgment or order of a criminal court, except in cases in which the appellant or a person tried with him has been sentenced to death or imprisonment for life:

Provided that in the exercise of such power a Single Judge shall not impose a sentence of death or imprisonment for life;

(b) from an original decree or order in any suit or other proceeding, where the amount or value of the subject-matter of the suit or other proceeding does not exceed one lakh rupees;

(c) from an original decree when such appeal relates to costs only;

(d) from an order under section 104 of the Code of Civil Procedure, 1908, except an order of the kind mentioned in clause (b) of sub-section (1) of the said section or in clauses (c), (d) or (j) of Rule 1 of Order XLIII of the First Schedule to the said Code;

(e) from an appellate decree or order;

(f) under section 79(3) of the Insolvency Act, 1955; and

(g) under section 476 B of the Code of Criminal Procedure, 1898.

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