

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

MACA.No. 768 of 2006 ()

**(AGAINST THE AWARD IN OP(MV).NO. 782/2002 OF MOTOR ACCIDENT CLAIMS
TRIBUNAL, MUVATTUPUZHA DATED 21-11-2005)**

APPELLANT/3RD RESPONDENT:

**THE ORIENTAL INSURANCE CO. LTD.,
REPRESENTED BY ITS ADMINISTRATIVE OFFICER,
REGIONAL OFFICE, METRO PLAZA,
NORTH RAILWAY STATION ROAD, ERNAKULAM.**

BY ADV. SRI.VPK.PANICKER

RESPONDENT(S)/RESPONDENTS 1 & 2 :

- 1. PRASAD A.V.,S/O.VELAYUDHAN,
ANTHIYALATHIL HOUSE, EAST MARADY,
MUVATTUPUZHA.**
- 2. MADHUSOODHANAN, S/O.VELAYUDHAN,
ANTHIYALATHIL HOUSE, EAST MARADY,
MUVATTUPUZHA.**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 02-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

P.B.SURESH KUMAR, J.

M.A.C.A.No.768 of 2006

Dated this the 2nd day of July, 2015

JUDGMENT

The insurer in a claim petition before the Motor Accidents Claims Tribunal has come up in this appeal challenging the decision of the Tribunal.

2. The claim petition was preferred by one Nalini, alleging that she sustained injuries in the accident took place on 23.2.2002, involving an autorickshaw owned by the first respondent and driven by the second respondent. The appellant was the insurer of the vehicle involved in the accident. The appellant contested the claim petition on the ground that the transport vehicle involved in the accident was not having a valid permit at the time of the accident and therefore, they are not liable to indemnify the first respondent. The Tribunal did not accept the said contention of the appellant. Consequently, an

award was passed permitting the claimant to recover the compensation determined as due from the appellant. The appellant is aggrieved by the said decision of the Tribunal.

3. Heard the learned counsel for the appellant.

4. As noticed above, the only contention raised by the appellant before the Tribunal was that the vehicle involved in the accident was not holding a valid permit to operate as a transport vehicle. In **Augustine vs. Ayyappankutty** [2015 (2) KLT 139], this Court has held that want of permit is not a ground that could be raised by the insurer in a proceeding before the Motor Accidents Claims Tribunal to claim exoneration from the liability.

In the light of the said decision referred to above, there is no merit in the appeal and the same is, accordingly, dismissed.

P.B.SURESH KUMAR, JUDGE.

smm