

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

MACA.No. 295 of 2012 ()

OPMV. NO.239/2009 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALA.

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APPELLANTS/RESPONDENTS 1 AND 2:

- 1. GEORGE THOMAS, ST. THOMAS TRAVELS,
KODIMATHA, KOTTAYAM.**
- 2. BAIJU, S/O. GEORGE,
PUTHENKALATHIL HOUSE, UPPUTHODU VILLAGE,
MADAPRA KARA, KARIKKINMEDU AMBALAM BHAGOM.**

**BY ADVS.SRI.K.V. GOPINATHAN NAIR,
SMT.G. CHITRA.**

RESPONDENTS/PETITIONER AND 3RD RESPONDENT:

- 1. THOMAS MATHEW,
S/O. THOMAS MATHAI, KOCHUPLAKKAL HOUSE,
KANGAZHA VILLAGE, THAVALAPPARA BHAGOM,
KANNAM KARA, KOTTAYAM DISTRICT - 686 515.**
- 2. THE NEW INDIA ASSURANCE INSURANCE COMPANY LTD.,
REPRESENTED BY ITS MANAGER,
MUNICIPAL SHOPPING COMPLEX, PALA. P.O.,
KOTTAYAM DISTRICT - 686 575.**

**R2 BY ADVS. SMT.T.C.SOWMIAVATHY,
SRI.A.A.ZIYAD RAHMAN.**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 21-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

MACA.No. 295 of 2012

APPENDIX

PETITIONER'S ANNEXURES:-

ANNEXURE A1 COPY OF THE DRIVING LICENCE OF THE 2ND APPELLANT.

**ANNEXURE A2 ORIGINAL DRIVING LICENSE PARTICULARS OF THE
2ND APPELLANT.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.295 of 2012

Dated this the 21st day of August, 2015

JUDGMENT

The owner and driver of a stage carriage involved in an accident which was the subject matter of a claim petition before the Motor Accidents Claims Tribunal, have come up in this appeal challenging the decision of the Tribunal.

2. One Thomas Mathew filed the claim petition, alleging that he sustained injuries in the accident took place on 11.12.2008, involving the stage carriage owned by the first appellant and driven by the second appellant. The second respondent was the insurer of the vehicle. The second respondent contested the claim petition, contending among others, that the second appellant was not holding a

valid licence to drive the vehicle involved in the accident and that therefore, they are entitled to recover the compensation, if any, payable to the claimant from the appellants. The contention of the second respondent was accepted by the Tribunal and accordingly, while passing the award in favour of the claimant, the Tribunal permitted the second respondent to recover the compensation from the appellants. The appellants are aggrieved by the said decision of the Tribunal and hence this appeal.

3. Heard the learned counsel for the appellants as also the learned counsel for the insurer.

4. The appellants did not contest the proceedings before the Tribunal. The learned counsel for the appellants contended that immediately after the accident, the appellants went to the office of the insurer and submitted all the documents relating to the vehicle and it was under the impression that the insurer will take care of their interests,

that they did not contest the proceedings before the Tribunal. According to them, the second appellant was holding a valid driving licence at the time of accident and that the impugned decision permitting the second respondent to recover the compensation directed to be paid to the claimant from the appellants is incorrect. The appellants have also produced before this Court, the driving licence particulars of the second appellant. The driving licence particulars of the second appellant issued from the Regional Transport Office, Idukki as produced before this Court indicates that the second appellant was holding a valid driving licence to drive a heavy passenger motor vehicle from 5.1.2006. In the light of the above evidence, it cannot be contended that the second appellant was not holding a driving licence at the time of the accident. In the circumstances, the impugned judgment is liable to be modified.

In the result, the appeal is allowed in part and the directions in the impugned judgment permitting the second respondent to recover the compensation directed to be paid to the claimant from the appellants is vacated.

P.B.SURESH KUMAR, JUDGE.

smm