

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

MACA.No. 662 of 2012 ()

**AGAINST THE AWARD IN OPMV 2133/2007 of MOTOR ACCIDENT CLAIMS TRIBUNAL,
ERNAKULAM DATED 22-10-2011**

APPELLANT/3RD RESPONDENT IN THE OP:

**THE ORIENTAL INSURANCE CO.LTD.
REPRESENTED BY THE ASSISTANT MANAGER
& AUTHORIZED SIGNATORY
THE ORIENTAL INSURANCE CO.LTD., REGIONAL OFFICE
METRO PALACE, ERNAKULAM NORTH, KOCHI-18.**

BY ADV. SRI.A.R.GEORGE

RESPONDENTS/RESPONDENTS 1 AND 2 IN THE OP:

- 1. NOUFAL.A.C.
S/O.USSAIN, ARETTUMCHALIL HOUSE, THAMARASSERY.P.O.
KOZHIKKODE.673 603.**
- 2. SAINUDHEEN
S/O.MOY, ARAYATTINCHALIL VEEDU, SOUTH VAZHAKKULAM
PERUMBAVOOR.683 105.**

BY ADV. SRI.K.A.SALIL NARAYANAN

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

JV

P.B.SURESH KUMAR, J.

M.A.C.A. No.662 of 2012

Dated this the 12th day of February, 2015

JUDGMENT

The insurer in a proceedings for compensation before the Motor Accident Claims Tribunal has come up in this appeal.

2. One Santhosh Kumar preferred the original petition for compensation alleging that he sustained injuries in a motor accident took place on 06.09.2007.

3. The appellant was the insurer of the vehicle involved in the accident and respondents 1 and 2 were the owner and driver of the vehicle respectively. The essence of the contention of the appellant before the Tribunal was that the second respondent was not holding a valid driving licence at the time of accident and that therefore, they are entitled to recover the compensation from the owner. It is conceded that the driver had the licence, but the same was renewed only after the accident.

4. The impugned award does not indicate that the Tribunal has considered the contention of the appellant. It is now trite that if the driver of the vehicle does not hold a valid licence at the time of accident, the insurer is entitled to recover the compensation from the insured.

In the circumstances, the impugned award is set aside and the matter is remitted to the Tribunal to decide the issue as to the right of the insurer to recover the compensation from the owner of the vehicle, after affording the parties an opportunity of hearing. In so far as the award in favour of the claimant is confirmed, it is made clear that notice need not be issued to the claimant in the further proceedings directed as per this judgment.

JV

Sd/-
P.B. SURESH KUMAR,
JUDGE