

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

MACA.No. 1684 of 2012 ()

OPMV.1935/2003 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, THRISSUR.

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APPELLANT/1ST RESPONDENT:

**BALAKRISHNAN, S/O.NARAYANAN,
RESIDING AT POTTEKKATTU VALAPPIL HOUSE,
P.O. PERAMANGALAM, THRISSUR DISTRICT.**

**BY ADVS.SRI.T.C.SURESH MENON,
SRI.P.S.APPU,
SRI.A.R.NIMOD,
SRI.K.A.ANAS.**

RESPONDENTS/PETITIONER/RESPONDENTS 2 AND 3:

- 1. JOY, S/O.KOCHUVAREED,
RESIDING AT NEELANKAVIL HOUSE,
VELOOR, THRISSUR-680 601.**
- 2. MANESH MOHAN. P., S/O.MOHANAN P.K.,
RESIDING AT PAMBUNGAL HOUSE,
MUNDUR, THRISSUR-680 541.**
- 3. THE NATIONAL INSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE, THRISSUR-680 001.**

R3 BY ADV. SMT.SARAH SALVY.

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

MACA.No. 1684 of 2012

APPENDIX

PETITIONER'S ANNEXURES:-

**ANNEXURE A COPY OF THE DRIVING LICENCE OF THE
SECOND RESPONDENT DATED 25/03/2003.**

**ANNEXURE B COPY OF THE INTERIM ORDER IN OP(MAC) NO.1422/2012
ON THE FILE OF THIS HONOURABLE COURT DATED 24/04/2012.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.1684 of 2012

Dated this the 5th day of June, 2015

JUDGMENT

The owner of a vehicle involved in an accident which was the subject matter in a claim petition before the Motor Accidents Claims Tribunal has come up in this appeal challenging the decision of the Tribunal.

2. The first respondent filed the claim petition alleging that he sustained injuries in an accident on 15.3.2003 involving an autorickshaw owned by the appellant and driven by the second respondent. The third respondent was the insurer of the vehicle involved in the accident. The third respondent contested the application, contending among others, that the second respondent was not holding the badge required to drive the transport vehicle involved in the accident and therefore, they are not liable to indemnify the appellant. The Tribunal accepted the contention of the

insurer and while directing the insurer to deposit the amount determined as compensation to the claimant before the Tribunal, permitted the insurer to recover the same from the appellant. The appellant is aggrieved by the said direction in the award.

3. The issue whether the insurer in a proceedings for compensation is entitled to be absolved from the liability on the ground that the driver of the vehicle involved in the accident was not holding the badge required to drive the transport vehicle involved in the accident, has been settled against the insurer by this Court in **National Insurance Co.Ltd vs. Jisha** [(2015 (1) KLT 1 (F.B)].

In the light of the said decision of this Court, the direction contained in the impugned award permitting the insurer to recover the compensation from the appellant is vacated. The Tribunal shall release to the appellant the amount deposited by him as provided under Section 173(2)

of the Motor Vehicles Act.

P.B.SURESH KUMAR, JUDGE.

Smm