

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

MACA.No. 1752 of 2012

**AGAINST THE AWARD IN OP(MV) 259/2001 OF MOTOR ACCIDENT CLAIMS TRIBUNAL,
MAVELIKKARA DATED 30-12-2010**

APPELLANT/1ST RESPONDENT:

**STEPHEN THOMAS, AGED 35 YEARS,
S/O. C.V.THOMAS, CHOKKOLIL HOUSE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT.**

BY ADV. SMT.S.L.SYLAJA

RESPONDENTS/PETITIONERS/1ST RESPONDENT:

- 1. RAGHAVAN,
THUNDILTHEKKATHIL HOUSE, OACHIRA P.O., KRISHNAPURAM,
ALAPPUZHA DISTRICT.**
- 2. KARTHAYANI,
W/O. RAGHAVAN, THUNDILTHEKKATHIL HOUSE, OACHIRA P.O.
KRISHNAPURAM,
ALAPPUZHA DISTRICT (ADDITIONAL PETITIONER).**
- 3. THE DIVISIONAL MANAGER (INSURANCE COMPANY),
NEW INDIA ASSURANCE CO. LTD., ERNAKULAM,
ERNAKULAM DISTRICT.**

**R1 & 2 BY SRI.M.A.GEORGE
R3 BY ADV. SRI.A.C.DEVY**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 20-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

MACA.No. 1752 of 2012

APPENDIX

PETITIONERS' ANNEXURES

**ANNEXURE A1: CERTIFIED COPY OF THE AWARD DATED 30/12/10 IN OPMV
NO.259/2001 OF THE MACAT, MAVELIKKARA, RECEIPT**

**ANNEXURE A2: TRUE PHOTOCOPY OF THE EXECUTION PETITION FILED
BEFORE THE TRIBUNAL MAVELIKKARA.**

ANNEXURE A3: TRUE PHOTOCOPY OF THE VALIED LICENCE DATED 7/8/07

ANNEXURE AA: ORIGINAL DRIVING LICENCE DATED 7/8/07 OF THE APPELLANT

RESPONDENTS' ANNEXURE

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.B.SURESH KUMAR, J.

M.A.C.A.No.1752 of 2012.

Dated this the 20th day of May, 2015.

J U D G M E N T

The owner-cum-driver of a vehicle involved in an accident which was the subject matter of a claim petition before the Motor Accidents Claims Tribunal, is the appellant in this appeal.

2. The first respondent filed the claim petition alleging that he sustained injuries in an accident took place on 23.3.2000. The appellant did not contest the application. The third respondent, the insurer of the vehicle contested the application contending inter alia that the appellant was not possessing licence to drive the vehicle at the time of accident and therefore they are entitled to recover the compensation, if any, granted to the claimant from the appellant. They have also filed an application as I.A.No.1943 of 2010 seeking orders directing the appellant to produce

the driving licence before the Tribunal. Though the Tribunal directed the appellant to produce the driving licence as per the order passed on the said application, he did not comply with the said order. In so far as the appellant had not produced his driving licence before the Tribunal, the Tribunal had drawn an adverse inference from the conduct of the appellant and held that the appellant was not holding a licence to drive the vehicle at the time of accident. In the light of the said finding, while granting compensation to the claimant, the Tribunal permitted the insurer to recover the compensation from the appellant. The appellant is aggrieved by the said decision.

3. In this appeal, the appellant has produced his original driving licence issued by the competent authority. The driving licence produced by the appellant is the driving licence issued to him for the period from 20.8.1997 to 19.8.2007. The said driving licence would indicate that the appellant was holding a valid driving licence as on the date of accident. In view of the said

document, I am inclined to allow the appeal.

In the result, the appeal is allowed and the impugned award to the extent it permits the insurer to recover the compensation granted to the claimant from the appellant is set aside. The amount deposited by the appellant before the Tribunal as provided under Section 173 of the Motor Vehicles Act shall be released to the appellant. The original of the driving licence produced by the appellant before this Court shall be returned to him, after retaining a copy of the same on record.

Sd/- P.B.SURESH KUMAR, JUDGE.

Kvs/-

// true copy //

PA TO JUDGE.