

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

MACA.No. 2167 of 2012 ()

**AGAINST THE AWARD IN OP(MV) 31/2006
OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, THALASSERY DATED 26-12-2011**

APPELLANT/3RD RESPONDENT :

**THE ORIENTAL INSURANCE CO. LTD
METRO PALACE, GROUND FLOOR, OPP. NORTH RAILWAY STATION
ERNAKULAM, REPRESENTED BY ITS ASST. MANAGER.**

BY ADV. SRI.V.P.K.PANICKER

RESPONDENTS/RESPONDENTS 1 & 2 AND PETITIONER :

- 1. E.J.SANTHOSH
S/O.JOSEPH, EZHUPURAYIL HOUSE,
AMBAYATHODE (P.O.), KOTTIYOOR (VIA)
(DRIVER OF THE VEHICLE NO.KL 13 N 199 VAN)**
- 2. S.I. ISSAC
SWARNNAPPALLIYIL HOUSE,
AMBAYATHODE (P.O.), KOTTIYOOR (VIA)- 670651
(RC OWNER OF VEHICLE NO.KL 13 N 199 VAN)**
- 3. CHANDRAN E.,
S/O.KALLYANI, 52 YEARS
EDAKKADAN HOUSE, DHARMASALA
KANUL P.O., KANNUR DISTRICT.**

**R1 & R2 BY ADVS. SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH
SMT.R.LEELA
SMT.N.K.SHEEBA
SRI.K.K.ANIL KUMAR**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 01-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Mn

...2/-

MACA.No. 2167 of 2012 ()

APPENDIX

PETITIONERS' ANNEXURES : NIL

RESPONDENT'S ANNEXURES :

**EXT.R1(a) : COPY OF THE DRIVING LICENCE PARTICULARS DATED 3.12.2012
ISSUED BY THE MOTOR VEHICLES INSPECTOR OF SUB
REGIONAL TRANSPORT OFFICE.**

//TRUE COPY//

P.A. TO JUDGE

Mn

P.B.SURESH KUMAR, J.

= = = = =

M.A.C.A.No.2167 of 2012.

= = = = =

Dated this the 1st day of September, 2015.

J U D G M E N T

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

2. The third respondent filed the claim petition, alleging that he sustained injuries in the accident took place on 1.8.2005, involving a vehicle owned by the second respondent and driven by the first respondent. The vehicle involved in the accident was covered by a valid insurance policy issued by the appellant. Nevertheless, the claim petition was contested by the appellant on the ground that the first respondent was not holding a licence to drive the vehicle and as such, they have no liability to indemnify the second respondent, the owner of the vehicle. According to them, in the circumstances, they are entitled to recover the

compensation, if any, found payable to the claimant. The Tribunal without considering the said contention of the appellant, passed the impugned award in favour of the claimant permitting him to recover compensation from the appellant. The appellant is, therefore, aggrieved by the said decision of the Tribunal.

3. Heard the learned counsel for the appellant and the learned counsel for respondents 1 and 2.

4. As noticed above, the contention of the appellant was that the first respondent was not holding a licence to drive the vehicle involved in the accident and as such, they are not liable to indemnify the second respondent. In this appeal, the first respondent has produced his driving licence particulars. The accident took place on 1.8.2005. The driving licence particulars produced by the first respondent before this Court indicates that he was holding licence to drive light motor vehicle from 1.4.1998 onwards. The vehicle involved in the accident is a van. It is not clear from the driving licence particulars produced by the first respondent before this Court as to

whether he was holding a valid driving licence to drive the vehicle involved in the accident. However, in the light of the additional document produced by the first respondent before this Court, I deem it appropriate to remit this matter to the Tribunal to decide the question as to whether the first respondent was holding a licence to drive the vehicle involved in the accident.

In the result, the impugned award, to the extent it fastens liability on the appellant to pay the compensation to the claimant, is set aside and the matter is remitted to the Tribunal to decide the question as to whether the first respondent was holding a licence to drive the vehicle involved in the accident, after affording the parties an opportunity to adduce evidence.

**Sd/-
P.B.SURESH KUMAR,
(JUDGE)**

Kvs/-

// true copy //

PA TO JUDGE.