

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

MACA.No. 347 of 2015 ()

AGAINST THE AWARD IN OPMV 1190/2012 of M.A.C.T.,KOZHIKODE
DATED 02-07-2013

APPELLANT/1ST RESPONDENT:

ABDUL NAZAR,
S/O.HASSAN KOYA, LUFANAZ, THENAMKUNNE
POST MANKAVU, KOZHIKODE-673 007.

BY ADV. SRI.JACOB ABRAHAM

RESPONDENT(S)/3RD RESPONDENT:

NATIONAL INSURANCE CO.LTD.,
4TH FLOOR, PARCO TOWERS, P.M.TAJ ROAD
KOZHIKODE-673 001.

R. BY ADV. SRI.GEORGE CHERIAN (SR.)
R. BY ADV. SMT.K.S.SANTHI
R. BY ADV. SMT.LATHA SUSAN CHERIAN
R1 BY ADV. SRI.M.A.GEORGE(B/O,NO MEMO)
R BY SRI.M.A.GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

T.R.RAMACHANDRAN NAIR & P.V ASHA, JJ.

M.A.C.A No.347 of 2015

Dated this the 23rd day of March, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by the owner of the offending vehicle having Reg.No.KL-11-AG-8547, which involved in an accident on 10.01.2012 causing death of a child, aged 7 years. The application for compensation resulted in an award of Rs.2,44,500/- with 8% interest.

2. As far as the appellant is concerned he is aggrieved by the finding in paragraph 15 of the award.

3. We heard the learned counsel Sri Jacob Abraham for the appellant and the learned Senior Counsel Sri George Cherian for the Insurance Company. The Tribunal entered a finding that the 2nd respondent before the Tribunal, namely driver of the offending vehicle, was not having a valid license as on the date of the accident. It was also found that the 2nd respondent driver did not prove the contention that he had valid license and only the photocopy was produced which was not marked also. This led the Tribunal to enter a finding that in the absence of a proof the

driver cannot be said to have a valid license.

4. Before this Court the license has been produced along with I.A.No.409 of 2015. It is submitted by the learned counsel for the appellant that therefore the finding in the award regarding recovery rights granted to the Insurance Company from the R.C owner, may be vacated.

5. The learned Senior Counsel for the respondent Insurance Company submitted that the Tribunal had no occasion to verify the driving license and therefore the only alternative is to remand the matter for fresh consideration.

6. The license in original will have to be marked in evidence. Therefore to adjudicate the said dispute, we remand the matter for fresh consideration. Hence we vacate the finding in para.15 of the award alone and it is made clear that we have not interfered with the quantum and the rights of the claimants, and to decide this issue the presence of claimants shall not be insisted. The matter will be reconsidered by the Tribunal afresh to decide whether the driver had a valid license in the light of the above scenario and we allow the appellant to produce the license in original which has been produced along with I.A.No.409 of 2015.

The Registry will return the document (the driving license) to the learned counsel for the appellant for production before the Tribunal. The appellant and the representative of the Insurance Company will appear before the Tribunal on 04.05.2015.

Sd/-

T.R.RAMACHANDRAN NAIR
Judge

Sd/-

P.VASHA
Judge

rtr/

/true copy/

P.S to Judge