

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

MACA.No. 202 of 2011 ()

OPMV 757/2001 of M.A.C.T., THALASSERY

APPELLANT(S)/3RD RESPONDENT:

THE NEW INDIA ASSURANCE COMPANY LIMITED,
PAYYANNUR NOW REPRESENTED BY ITS DEPUTY MANAGER
REGIONAL OFFICE, M.G.ROAD, KOCHI-11.

BY ADVS.SRI.MATHEWS JACOB (SR.)
SRI.P.JACOB MATHEW

RESPONDENT(S)/RESPONDENTS 1 & 2:

1. THAZHEKURUNTHIL UDAYAKUMAR,S/O.BHARATHAN
KANICHIRA, THAIKADAPPURAM.P.O, VIA
NEELESWARAM, KASARAGOD DISTRICT, PIN-673572.

2. N.BALAKRISHNAN,S/O.N.K.KARTHYAYANI,
CHERUTHAZHAM, MANDUR.P.O, VIA.PAYANGADI
KANNUR DISTRICT, PIN-670303.

R1 BY ADV. SRI.M.SASINDRAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.202 of 2011

Dated 18th March, 2015

J U D G M E N T

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

2. One T.Vijayan filed the petition for compensation, alleging that he sustained injuries in an accident took place on 26.10.2000, involving a transport vehicle owned by the second respondent and driven by the first respondent. The appellant was the insurer of the vehicle involved in the accident.

3. The appellant contested the petition contending that the first respondent was not holding an authorisation to drive a transport vehicle (badge).

4. The Tribunal rejected the contention raised by the appellant and passed an award permitting the claimant to recover the compensation determined as due from the appellant. The appellant is aggrieved by the award of the

Tribunal and hence the appeal.

5. Heard the learned counsel for the appellant.

6. A Full Bench of this Court has now held in **National Insurance Company Ltd. v. Jisha** (2015(1) KLT 1) that want of authorisation for the driver of the vehicle involved in an accident to drive a transport vehicle would not absolve the insurer from the liability to indemnify the owner.

There is, therefore, no merit in the appeal and the same is accordingly, dismissed.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)