

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

MACA.No. 711 of 2013 ()

OPMV 90/2010 of M.A.C.T., OTTAPPALAM

APPELLANT/3RD RESPONDENT:

THE UNITED INDIA INSURANCE CO. LTD.
PALAKKAD, REPRESENTED BY ITS DEPUTY MANAGER
REGIONAL OFFICE, HOSPITAL ROAD, ERNAKULAM.

BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)

RESPONDENTS/RESPONDENTS 1 AND 2:

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1. MUSTAHFA,
S/O. SIRAJ, KOPPATH HOUSE, ATHANI
TRITHALA P.O., PALAKAKD DISTRICT, PIN-679534.
 2. V.KOMUKKUTTY
VADAKKETHIL HOUSE, TRITHALA P.O., PALAKKAD DISTRICT
PIN-679534.

R1 BY ADV. SRI.P.K.MOHANAN(PALAKKAD)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.711 of 2013

Dated 1st April, 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. The appellant contested the petition on the ground that the vehicle involved in the accident was plying without a fitness certificate and therefore, they are not liable to indemnify the owner of the vehicle. The Tribunal rejected the said 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.

3. Heard the learned counsel for the appellant.

4. A Full Bench of this Court has now held in **Augustine V.M. v. Ayyappankutty** (2015(2) KHC 219) that the insurer is not entitled to be absolved from the liability to indemnify the owner for the reason that the accident occurred when the

vehicle involved in the accident was plying without a fitness certificate.

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

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)