

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 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

MACA.No. 959 of 2015 ()

AGAINST THE AWARD IN OPMV 622/2009 of MACT,KASARAGOD DATED 17-07-2013

APPELLANT/1ST RESPONDENT:

SUKUMARAN K, AGED 59 YEARS
S/O.APPAKUNHI, PARAYAMPALLAM HOUSE, MUNNAD P.O.
CHENGALA VIA, KASARAGOD TALUK & DISTRICT.

BY ADV. SRI.I.V.PRAMOD

RESPONDENT(S)/RESPONDENTS/PETITIONER AND 2ND RESPONDENT:

1. M THAMBAN NAIR
S/O.LATE KUNHAMBU NAIR, ANNAPPADI HOUSE, PADAPPU
SHANKARAMPADY P.O., KARIVEDAKAM VILLAGE
KASARAGOD DISTRICT - 671 001.

2. THE BRANCH MANAGER
UNITED INDIA INSURANCE CO.LTD., P.B.NO.19
PADMAVATHY SHOPPING COMPLEX, M.G.ROAD
KASARAGOD - 671 001.

R BY SRI.JOHN JOSEPH VETTIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A No.959 of 2015

Dated this the 30th day of March, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal filed by the driver of the offending vehicle is confined to one question whether, the driver was having valid driving license at the time of the accident. The Tribunal has awarded a total amount of Rs.1,75,700/- as compensation. The Tribunal also directed the Insurance Company to pay the amount to the claimant while retaining the right of recovery from the appellant. Before us the learned counsel for the appellant Shri I.V.Pramod submitted that copy of the driving license has been produced in this appeal as Annexure-A1, which will show that the driver had valid license at the time of the accident.

2. The accident occurred on 14.05.2009. Going by the entries in Annexure-A1, the license is valid from 4.6.08 to 3.6.2028. The learned counsel for the appellant prayed for an opportunity to produce the same before the Tribunal and to seek modification of the award.

3. We heard the learned counsel for the Insurance Company, who submitted that since the document was not before

the Tribunal, the matter will have to go back so that the parties will get opportunity to adduce their evidence.

4. We allow the appeal and set aside the finding with regard to absence of driving license in favour of the appellant and we also vacate the direction in the operative portion of the award permitting the insurer to recover the amount of compensation from the appellant. O.P(MV) No.622 of 2009, is remanded back to the Tribunal. Both sides are allowed to adduce evidence in the matter. It is made clear that as regards the amount of compensation as well as the finding on negligence, the award will be treated as final and the matter will be considered only with regard to the validity of the driving license of the appellant alone.

The parties will appear before the Tribunal on 11.05.2015. We permit the appellant to produce his driving license by filing appropriate application.

Sd/-

T.R.RAMACHANDRAN NAIR

Judge

Sd/-

P.VASHA

Judge

rtr/

/true copy/

P.S to Judge