

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

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

MACA.No. 995 of 2011 ()

OPMV 793/2006 of MACT, IRINJALAKUDA

APPELLANT(S)/THIRD RESPONDENT:

THE ORIENTAL INSURANCE CO. LTD.,
METRO PALACE, GROUND FLOOR, OPP. NORTH RAILWAY STATION
ERNAKULAM, REP. BY ITS DULY AUTHORIZED OFFICER.

BY ADV. SRI.VPK.PANICKER

RESPONDENT(S)/1ST, 2ND AND ADDL. 4TH RESPONDENTS & PETITIONERS:

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1. ESSA P.K.,
S/O.KUNJU VARU, PAMBINEZHATH HOUSE, METHALA P.O.
KODUNGALLUR-683545.
 2. YOUSEF, S/O.ESSA,
PAMBINEZHATH HOUSE, NEAR WEST OF SAMAJAM, METHALA P.O.
KODUNGALLUR-683545.
 3. K.O.JOSEPH, KALATHIL HOUSE,
KOTTAPPURAM P.O., KODUNGALLUR-680667.
 4. V.M.RAMLU @ RAMLA IBRAHIM,
W/O.IBRAHIM, KONAKKATTUPARAMBIL HOUSE, ATHANI DESOM
ERİYAD VILLAGE, MADAVANA P.O., MUKUNDAPURAM TALUK
THRISSUR DISTRICT-680666.

R1-2 BY ADV. SRI.V.M.KRISHNAKUMAR

R4 BY ADV. SRI.P.V.BABY

R4 BY ADV. SRI.A.N.SANTHOSH

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.995 of 2011

Dated 30th 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. The fourth respondent filed the petition for compensation, alleging that she sustained injuries in an accident took place on 15.7.2005, involving a transport vehicle owned by the first respondent and driven by the second respondent. The appellant was the insurer of the vehicle involved in the accident.

3. Respondents 1 and 2 remained ex parte. The appellant contested the petition contending that the second 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)