

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

MACA.No. 352 of 2014 ()

**AGAINST THE AWARDIN OP(MV) 1559/2005 of ADDL.D.C.&
MACT,PATHANAMTHITTA DATED 30-04-2013**

APPELLANT(S):

**NATIONAL INSURANCE COMPANY LTD
PATHANAMTHITTA REP. BY ITS MANAGER.**

**BY ADVS.SRI.A.A.ZIYAD RAHMAN
SRI.LAL K.JOSEPH
SRI.V.S.SHIRAZ BAVA**

RESPONDENT(S):

- 1. KUTTAPPAN, S/O. NEELAKANTAN,
PULINIKUNNATHIL VEEDU, PAYYANAMON P.O,
KONNI, PATHANAMTHITTA-695018**
- 2. SASIDHARAN NAIR,
GOPIVILASOM HOUSE,
KIZHAKKUPURAM,
KONNI THAZHAM, PATHANAMTHITTA.**

R2 BY ADV. SRI.JOHN MATHEW

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 12-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

SMM

P.B.SURESH KUMAR, J.

M.A.C.A.No.352 of 2014

Dated this the 12th day of August, 2015

JUDGMENT

The insurer of a vehicle involved in an accident which was the subject matter of a claim petition before the Motor Accidents Claims Tribunal, has come up in this appeal challenging the decision of the Tribunal in the claim petition.

2. The first respondent filed the claim petition, alleging that he sustained injuries in the accident took place on 14.8.2005, involving a vehicle owned and driven by the second respondent. The appellant was the insurer of the vehicle involved in the accident. The appellant contested the claim petition, contending among others, that the second respondent was not holding a valid driving licence at the time of the accident. Ignoring the said contention, the claim

petition was allowed by the Tribunal, directing the appellant to pay compensation to the claimant. The appellant is aggrieved by the said decision of the Tribunal.

3. Heard the learned counsel for the appellant as also the learned counsel for the second respondent.

4. In this appeal, the second respondent has produced his original driving licence. The original driving licence produced by the second respondent indicates that he was holding licence to drive a non transport vehicle from 16.7.2012 to 15.7.2017. It is seen from the endorsements on the rear side of the original licence that the second respondent was holding a licence to drive a light motor vehicle with effect from 13.4.1983. The learned counsel for the appellant submitted that from the original driving licence produced before this Court, it cannot be inferred that the appellant was holding a driving licence as on the date of the accident. The learned counsel for the second respondent

submitted that since he was holding a licence to drive a light motor vehicle with effect from 13.4.1983, it will have to be presumed that he was holding the driving licence as on the date of accident viz., 14.8.2005.

6. In so far as the original driving licence produced before this Court indicates that the second respondent was holding a licence to drive a light motor vehicle with effect from 13.4.1983, I deem it appropriate to grant the second respondent an opportunity to establish that he was holding a licence to drive the vehicle involved in the accident as on 14.8.2005.

7. In the result, the appeal is allowed, the impugned award is set aside and the matter is remitted to the Tribunal for fresh consideration of the issue as to whether there is any breach of the conditions of policy issued by the appellant. Since the matter is remitted for the purpose of deciding the said issue alone, notice need not be issued to

the first respondent/claimant in the further proceedings initiated pursuant to this judgment. The registry is directed to return to the second respondent the original driving licence produced by him in this appeal. The pre-deposit made by the appellant for instituting this appeal under Section 173(2) of the Motor Vehicles Act shall be released by the Tribunal to the appellant. The parties are directed to appear before the Tribunal on 15.9.2015.

P.B.SURESH KUMAR, JUDGE.

smm