

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH**

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

MACA.No. 119 of 2009 ()

**-----
AGAINST THE AWARD IN OP(MV) 1019/2002 OF MOTOR ACCIDENTS CLAIMS
TRIBUNAL, VADAKARA DATED 14-07-2006**

APPELLANT/2ND RESPONDENT:

**-----
RANJITH P.P., S/O.RAGHAVAN,PUNNAYULLA
PARAMBATH HOUSE, CHERUVANCHERY POST, KANNUR DISTRICT
KERALA STATE, PIN-670 650. (DRIVER OF THE VEHICLE
NO.KL-13/3245 LORRY DRIVING LICENCE NO.2601/00DB
BADGE NO.2308).**

**BY ADVS.SRI.T.M.ABDUL LATHEEF
SRI.V.R.NASAR**

RESPONDENTS/(PETITIONERS & RESPONDENTS 1 AND 3):

-
- 1. MARIYAM, W/O.ABDULLA, CHAMAPARAMBATH HOUSE
IYYANKODE AMSOM, DESOM,
IYYANKODE POST, NADAPURAM, VADAKARA TALUK
KOZHIKODE DISTRICT, KERALA STATE, PIN-673 504.**
 - 2. MARIYAM, D/O.KUNHALI, KELANKANDIYIL
HOUSE, VELAM AMSOM, CHERUKUNNU DESOM
VELAM POST, KUTTIADI (VIA), VADAKARA TALUK
KOZHIKODE DISTRICT, PIN-673 508, KERALA STATE.**
 - 3. BIYYATHU, D/O.KUNHALI, PARAMBATH HOUSE,
PURAMERI AMSOM, DESOM, P.O.PURMERI,
VADAKARA TALUK, KOZHIKODE DISTRICT
KERALA STATE, PIN-673 502.**
 - 4. AMAD, S/O.KUNHALI,CHAMAPARAMBATH HOUSE,
IYYANKODE AMSOM, DESOM, (P.O)
IYYANKODE, VATAKARA TALUK
KOZHIKODE DISTRICT, KERALA STATE 673 504.**
 - 5. K.RAJEEVAN, S/O.DAMODHARAN,
KURUVILAMKAYYIL HOUSE, P.O.EDAYANNUR, KANNUR DISTRICT
KERALA STATE, PIN 670 595(R.C.OWNER OF THE VEHICLE
NO.KL-13/3245 LORRY)**

MACA.No. 119 of 2009

**6. UNITED INDIA INSURANCE CO.LTD,CHOVVA
BRANCH, CALTEX JUNCTION, KANUR-II
PIN-670 002.
(INSURER OF THE VEHICLE NO.KL-13/3245 LORRY)
POLICY NO.100805/31/01/22201.**

R6 BY ADV. SRI.P.MURALEEDHARAN

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

APPELLANT'S ANNEXURES:

- A1. COPY OF THE INSURANCE CERTIFICATE
- A2. COPY OF THE GOODS CARRIAGE PERMIT DATED 19.8.1998
- A3. COPY OF THE DEMAND NOTICE DATED 28.11.2008
- A4. COPY OF THE DRIVING LICENCE

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A. TO JUDGE

shg/

T.R. RAMACHANDRAN NAIR & K.P. JYOTHINDRANATH, JJ.

M.A.C.A.No.119 of 2009

Dated this the 5th day of June, 2015

J U D G M E N T

Ramachandran Nair, J.

This appeal is filed by the appellant who was the second respondent before the Tribunal. He was the driver of the vehicle which was involved in the accident. He was set exparte before the Tribunal. Only the Insurance Company had contested the matter. When the award was passed the Tribunal held that in paragraph 8 that respondents 1 & 2 are not having valid vehicular documents and driving licence at the time of accident. Therefore the liability was passed on to the appellant also which is the dispute raised now.

2. Along with the appeal copy of the insurance certificate has been produced and marked as Annexure A1 and the copy of the permit has been marked as Annexure A2.

3. It is contented by the learned counsel for the

appellant that the appellant had valid driving licence at the time of accident.

4. Learned counsel for the Insurance Company submitted that none of these aspects have been pleaded or proved before the Tribunal and therefore the appellant cannot be heard so, in this appeal.

5. If actually the appellant had valid licence and the vehicle is covered by policy evidently the liability will be on the Insurance Company. It is seen that appellant did not appear and therefore he was set exparte. Since the liability is joint and several and the appellant is also liable to satisfy the award and also he has a contention that the liability will have to be fastened to the Insurance Company, we are of the view that an opportunity can be given to the appellant to plead and prove his contentions. There is no challenge against the quantum of compensation. Therefore, we confirm the same and only as regards the contentions concerning the policy documents etc. at the time of accident and the driving licence of the appellant and the liability of

the insurance company, we remand the matter for fresh consideration by the Tribunal. We thus grant a fresh opportunity and hence vacate the order setting aside the appellant and the owner exparte. All efforts could be taken to dispose of the matter expeditiously. The finding in paragraph No.8 that the claimants are entitled to get compensation only from respondents 1 and 2 is vacated and the said issue will be reconsidered in the light of the observations made as above. The parties will appear before the Tribunal on 15.7.2015.

Sd/-

T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-

K.P. JYOTHINDRANATH
JUDGE

shg/