

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

MACA.No. 315 of 2009 ()

OPMV 353/2005 of MACT, KASARAGOD

APPELLANT(S)/3RD RESPONDENT:

THE BRANCH MANAGER,
NATIONAL INSURANCE COMPANY LTD., III FLOOR
HIGH LANE PLAZA, M.G. ROAD, KASARAGOD.

BY ADV. SRI.RAJAN P.KALIYATH

RESPONDENT(S)/PETITIONER AND RESPONDENTS 1 AND 2:

1. ANIL KUMAR, AGED 25 YEARS,
S/O. RAJU, RESIDING AT ARMANGANAM
KALNAD POST AND VILLAGE, KASARAGOD TALUK
AND DISTRICT.
2. CHANDRASEKHARA.U, S/'O. VENKATARAMANA,
MARABAIL, KALNAD POST AND VILLAGE
KASARAGOD TALUK AND DISTRICT
3. K. BABURAJA,
MARABAIL HOUSE, CEMNAD X, 43 D
KALANAD POST AND VILLAGE, KASARAGOD TALUK.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. Nos.315 of 2009

Dated 18th 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 first respondent filed the petition for compensation, alleging that he sustained injuries in an accident took place on 16.11.2004, involving a transport vehicle owned by the third respondent and driven by the second respondent. The appellant was the insurer of the vehicle involved in the accident.

3. 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)