

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR**

**MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937**

**MACA.No. 1845 of 2015**  
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**OPMV 1029/2008 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, IRINJALAKUDA  
DATED 15-12-2012**  
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**APPELLANT(S)/1ST RESPONDENT:**  
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**JOY D.CUNHA,  
S/O.ANTONY, VADAKKEILLIKKAL HOUSE, PAZHOOKKARA DESOM,  
ANNALLUR VILLAGE, MUKUNDAPURAM TLAUK,  
THRISSUR DISTRICT.**

**BY ADV. SRI.A.N.SANTHOSH**

**RESPONDENT(S)/2ND RESPONDENT:**  
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**THE ORIENTAL INSURANCE COMPANY LTD.,  
NORTH NADA, KODUNGALLUR - 680 664.**

**BY ADV. SMT.K.S.SANTHI**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR  
ADMISSION ON 13-07-2015, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:**

**msv/**

**MACA.No. 1845 of 2015**  
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**APPENDIX**

**PETITIONER(S)' ANNEXURES:**

**ANNEUXRE A1: A TRUE PHOTOCOPY OF THE REGISTRATION CERTIFICATE/FITNESS  
CERTIFICATE ISSUED BY THE SUB REGIONAL TRANSPORT OFFICE,  
IRINJALAKUDA.**

**RESPONDENT(S)' ANNEXURES:**

**NIL**

**//TRUE COPY//**

**P.S.TO JUDGE**

Msv/

**P.B.SURESH KUMAR, J.**

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**M.A.C.A.No.1845 of 2015**  
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**Dated this the 13<sup>th</sup> day of July, 2015**

**JUDGMENT**

This is an appeal filed by the owner of the vehicle involved in the accident which was the subject matter of claim petition before the Motor Accidents Claims Tribunal.

2. One Eliya sustained injuries in the accident which took place on 26.4.2008 involving a vehicle owned by the appellant. The respondent was the insurer of the vehicle. The respondent contested the claim petition, mainly on the ground that the vehicle owned by the appellant was not holding a fitness certificate at the time of the accident. The said contention of the respondent was accepted and while directing the respondent to pay compensation to the claimants in the proceedings, the Tribunal permitted the

respondent to recover the compensation from the appellant.

The appellant is aggrieved by the decision of the Tribunal.

3. Heard the learned counsel for the appellant as also the learned counsel for the insurer.

4. A Full Bench of this Court in **Augustine V.M. v. Ayyappankutty** (2015 (2) KLT 139) held that absence of fitness certificate for the vehicle involved in the accident will not absolve the insurer from their liability to indemnify the owner of the vehicle. In the light of the said decision of this Court, the impugned award is liable to be interfered with.

In the result, the appeal is allowed and the direction in the impugned award permitting the respondent to recover the compensation payable to the claimant from the appellant is vacated. All the interlocutory applications in the appeal are closed.

**P.B.SURESH KUMAR, JUDGE.**

smm