

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&
THE HONOURABLE MRS. JUSTICE MARY JOSEPH

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

MACA.No. 2060 of 2015 ()

AGAINST THE AWARD IN OPMV 680/2012 of MACT MUVATTUPUZHA DATED
27-04-2015

APPELLANT(S)/2ND RESPONDENT:

PREMNIVAS K.S AGED 53 YEARS
S/O.SANKARAN, KOOVACKAL HOUSE, MARANGATTULY
THIRUVANIYOOR P.O., ERNAKULAM DISTRICT, PIN - 682 308.

BY ADVS.SRI.A.C.CHACKO
SRI.SAJI VARGHESE KAKKATTUMATTATHIL

RESPONDENT(S)/PETITIONER AND RESPONDENTS 1 TO 3:

1. KUNJAIPPAN, AGED 68 YEARS
S/O.KANNAN KUNJAIPPAN, THIRUMALAYIL HOUSE
THIRUVANIYOOR P.O., ERNAKULAM DISTRICT, PIN - 682 308.

2. VISHNU
S/O.PREMNAVAS, KOOVACKAL HOUSE, MARANGATTULY
THIRUVANIYOOR P.O., ERNAKULAM DISTRICT, PIN - 682 308.

3. THE ORIENTAL INSURANCE COMPANY LIMITED
PALAKKAT BUILDING, MARKET JUNCTION, TRIPUNITHURA
ERNAKULAM DISTRICT - 682 301. REP. BY ITS BRANCH MANAGER

BY ADV. SMT.K.S.SANTHI

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 14-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

vdv

K.Surendra Mohan & Mary Joseph, JJ.

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M.A.C.A No.2060 of 2015

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Dated this the 14th day of July, 2015.

ORDER

Surendra Mohan,J

This appeal is filed against the award of the Motor Accidents Claims Tribunal, Muvattupuzha in O.P(MV) No.680 of 2012. The second respondent in the OP(MV) is the appellant. The appellant was the owner of the motor cycle that was involved in the accident in which the first respondent had suffered injuries. The Motor Accidents Claim Tribunal ('MACT' for short) has awarded a total amount of Rs.93,800/- as compensation with interest thereon at the rate of 8% per annum from the date of the petition. The Insurance company has been absolved liability though the vehicle was covered by a valid insurance policy, for the reason that the motor cycle was, at the time of the accident, driven by a minor having no valid licence. In view of the fact that the motor cycle was being driven by a minor having no valid licence, the MACT has found that the accident was caused due to the rash and negligent act of the driver

of the motor cycle.

2. According to the learned counsel for the petitioner, Sri.A.C.Chacko, the injured is guilty of contributory negligence. It is contended that, the mahazar would show that he was walking along the centre portion of the road. It is further alleged that, the injured was drunk at the time of the accident. Therefore, according to the learned counsel, the MACT ought to have reduced the amount of compensation on the ground of contributory ingredients. It is the further case of the learned counsel for the petitioner that, because of the illness of his father, he was not in a position to let in proper evidence in support of his case. Therefore, he seeks the grant of a further opportunity to adduce evidence and to prove the case pleaded by him.

3. Heard. It is not in dispute that, the vehicle at the time of the accident was being driven by a minor who had no valid licence. Therefore, the MACT has found that the accident was caused due to the rash and negligent act of the driver of the motor vehicle. We find no infirmity in the said conclusion. Riding the motorcycle without a valid licence, that too by a person who was not entitled to be issued

with a licence is a violation of the law. The obligation to prevent such violation has been cast on the owner of the motor vehicle also by Section 105 of the Motor Vehicles Act, 1988. The above legislative mandate has been grossly violated. We find no justification for the contention that the liability that has been cast on the petitioner should be interfered with. It is true that the appellant has contented that the injured was drunk at the time of the accident. However, there is absolutely no evidence to prove the said contention. The medical records also do not offer any such indication. Admittedly, the appellant had not adduced any evidence to support the said contention. In the above state of the evidence, we find no grounds to admit this appeal.

For the above reasons, the appeal is dismissed.

Sd/-
K. Surendra Mohan, Judge.

Sd/-
Mary Joseph, Judge.

vdv