

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

MACA.No. 1978 of 2013 ()

OPMV 1644/2005 of MACT MUVATTUPUZHA

APPELLANTS/RESPONDENTS 1 & 2 IN OP(MV) :

1. V.K.SHANMUKHAN, S/O.KARUPPAN, VALIVAPRAMIL HOUSE,
KOOLIMUTTAM, KODUNGALLUR.
2. K.K.AYYAPPAN, S/O.KUMARAN,
KILIKULANGARA HOUSE, KOOLIMUTTAM, KODUNGALLUR.

BY ADVS.SRI.RENJITH THAMPAN (SR.)

SMT.P.R.REENA

RESPONDENTS/PETITIONER & THIRD RESPONDENT IN OP(MV) :

1. SOMAN.P.J., AGED 50 YEARS,
S/O.JANAKI KUNJAN, PUTHAKUZHIL HOUSE,
POOTHRIKKA P.O., - 682 308.
2. ORIENTAL INSURANCE CO. LTD.,
KODUNGALLUR, THRISSUR DISTRICT - 680 664.

R1 BY ADV. SRI.K.G.CLEETUS

R2 BY ADV. SMT.A.SREEKALA

R2 BY SRI.GEORGE CHERIAN (THIRUVALLA)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 24-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.1978 of 2013

Dated 24th July, 2015.

J U D G M E N T

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

2. The issue raised in the appeal is as to whether the insurer in the proceedings before the Tribunal is entitled to be exonerated from the liability to pay compensation for the reason that the vehicle involved in the accident was not having a valid fitness certificate at the time of accident. In **Augustine v. Ayyappankutty @ Mani and another** (2015(2) KHC 2190), a Full Bench of this Court held that want of fitness certificate is not a ground that could be raised by the insurer to get themselves absolved from the liability to indemnify the owner of the vehicle. In the light of the said decision, this

appeal is allowed and the permission granted to the insurer in the proceedings to recover the liability from the appellants is vacated.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)