

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

MACA.No. 1005 of 2010 ()

**AGAINST THE AWARD IN OP(MV) NO. 580/2000
OF IST ADDL. MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE DATED 27-05-2006**

APPELLANT/IST RESPONDENT :

**K.M.HARIDASAN,
SON OF KANDAKUTTY,
KIZHUMADATHIL HOUSE,
PAYYADIMEETHAL P.O., PANTHEERANKAV
KOZHIKODE.**

BY ADV. SRI.N.K.SANATH KUMAR

RESPONDENTS/PETITIONER, 2ND & 3RD RESPONDENTS :

**1. O.K.MOYIMONUL RASHEED,
SON OF KAMMUKKUTTY HAJI, O.K.H. HOUSE
VALLIMMAL PARAMBA, P.O. MANKAVU, KOZHIKODE
PIN – 673 007.**

**2. K.P. ARAVINDAN,
SON OF KUNJIKANNAN NAIR,
KUNNATHPOYIL HOUSE, PERUVAYAL AMSOM
KOZHIKODE DISTRICT, PIN – 673 007 (*DELETED)**

***RESPONDENT NO. 2 IS DELETED FROM THE ARRAY OF PARTIES AT THE
RISK OF THE APPELLANT VIDE ORDER DATED 31.07.2015 IN CMA 1283/10
AND MACA.NO. 1005/2010.**

**3. NATIONAL INSURANCE COMPANY LTD.,
BRANCH OFFICE, NOOR COMPLEX, MAVOOR ROAD
NEAR ARAYADATHPALAM, CALICUT, PIN – 673 661,.**

R3 BY ADV. SRI.RAJAN P. KALIYATH

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 01-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

P.B.SURESH KUMAR, J.

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M.A.C.A.No.1005 of 2010.

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Dated this the 1st day of December, 2015.

J U D G M E N T

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

2. The claim petition was filed by one O.K.Moyimonul Rasheed alleging that his vehicle was damaged in an accident involving a stage carriage owned by the appellant. The third respondent was the insurer of the vehicle owned by the appellant. It is seen that though the third respondent admitted the insurance coverage of the vehicle at the time of accident, an award was passed casting liability on the appellant by the Tribunal without noticing the admission made by the third respondent as to the existence of the policy. The appellant is, therefore, aggrieved by the

said decision of the Tribunal.

3. Heard the learned counsel for the appellant as also the learned counsel for the third respondent.

4. In the objection filed by the third respondent before the Tribunal, it is categorically admitted that the vehicle at the relevant time was covered by a valid insurance policy issued by them. In the light of the aforesaid admission made by the third respondent, there is absolutely no justification for the Tribunal to pass an award directing the appellant to pay the compensation awarded to the claimant.

In the result, the appeal is allowed and the impugned award is modified directing the third respondent to pay the compensation determined as due to the claimant.

**Sd/-
P.B.SURESH KUMAR,
JUDGE.**

Kvs/-

// true copy //

PA TO JUDGE.