IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

MACA.No. 1820 of 2014 ()

(AGAINST THE AWARD IN OPMV 3114/2003 of SPL.COURT FOR EC ACT CASES & MACT,THRISSUR, DATED 08-06-2010)

APPELLANT/RESPONDENT NO.1:-

PRADOSH AGED 43 YEARS
S/O. RAMANKUTTY, RESIDING AT PATTATHIL HOUSE P.O.
CHUVANNAMANNU, THRISSUR.

BY ADV. SRI.P.V.CHANDRA MOHAN

RESPONDENT/2ND RESPONDENT:-

UNITED INDIA INSURANCE CO. LTD.
SIMIS COMPLEX, KURUPPAM ROAD, THRISSUR - 680 001.

BY ADV. SRI.P.JAYASANKAR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

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M.A.C.A.No.1820 of 2014.
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Dated this the 16th day of January, 2015.

J U D G M E N T

The owner of the vehicle in a proceeding for compensation before the Motor Accidents Claims Tribunal, has come up in this appeal, challenging the direction in the award permitting the insurer of the vehicle to recover from him the compensation granted to the claimant.

2. The case of the claimant before the Tribunal was that on 28.1.2003, while he was travelling in an autorikshaw owned and driven by the appellant, the vehicle met with an accident in which he sustained injuries. He claimed a sum of Rs.50,000/- by way of compensation. The appellant remained ex parte. The second respondent, the insurer of the vehicle filed a written statement admitting the insurance coverage of the vehicle at the time of the accident. The Tribunal though found that the claimant is

entitled to a sum of Rs.29,100/- by way of compensation and directed the insurer to satisfy the award, permitted the insurer to recover the said amount from the appellant on the ground that he did not produce the permit and fitness certificate of the vehicle as on the date of the accident. As indicated above, it is aggrieved by the said direction of the Tribunal that the appellant has come up in this appeal.

3. It is seen from the award that the insurer had no contention in the written statement filed by them that the vehicle of the appellant did not have the permit and fitness certificate at the time of accident and therefore, they have no liability to indemnify the same. On the other hand, the insurer had stated in the written statement filed by them that the vehicle at the relevant time of the accident was covered by a valid insurance policy. The learned counsel for the appellant contended that the vehicle at the relevant time had the permit and fitness certificate and he remained ex parte as he was informed by the office of the insurer that

in so far as the vehicle was covered by an insurance policy they will take care of the interest of the appellant in the proceedings.

4. In so far as the appellant asserts that the vehicle at the relevant time of accident had the permit and fitness certificate to ply the same on the road and he can produce the same before the Tribunal, if an opportunity is given to him, I am inclined to grant an opportunity to the appellant to produce the permit and fitness certificate of the vehicle before the Tribunal. This I do so taking note of the fact that the vehicle at the relevant time of the accident was covered by a valid insurance policy and the insurer is not seem to have raised any specific contention in this regard.

5. In the result, the impugned award to the extent it permitted the insurer to recover the amount of compensation from the appellant is set aside and the matter is remitted to the Tribunal for fresh consideration of the issue as to whether the insurer is entitled to recover the

compensation from the owner. The parties are directed to appear before the Tribunal on 16.2.2015 and they are at liberty to adduce evidence.

The appeal is allowed as above.

Sd/-
P.B.SURESH KUMAR,
(Judge)

Kvs/-

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PA TO JUDGE.