

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

MACA.No. 1288 of 2010

**JUDGMENT DATED 20-01-2010 OPMV 377/2007 of MOTOR ACCIDENT CLAIMS
TRIBUNAL, OTTAPPALAM**
.....

APPELLANT(S)/1ST RESPONDENT:

**PRASAD,S/O.RAJAN, AGED 31 YEARS,
17/03, NOW RESIDING AT MANKAVU NEW COLONY,
NEAR STADIUM STAND, PALAKKAD DISTRICT.**

**BY ADVS.SRI.O.P.NANDAKUMAR
SRI.V.A.AJAI KUMAR**

RESPONDENT(S)/RESPONDENTS 2, 3 AND PETITIONERS:
-----,

- 1. K.S.IBRAHIM, S/O.ABDUL KHADER,
AGE NOT KNOWN, KUTTUMPULLY AYISHA MANZIL,
AYODHYA NAGAR P.O., CHANDRA NAGAR,
PALAKKAD DISTRICT - 678 007.**
- 2. THE UNITED INDIA INSURANCE COMPANY LTD.,
REPRESENTED BY ITS MANAGER, 5TH FLOOR, ROHIT
CHAMBERS, JENMABHOOMI MARG,
MUMBAI - 400 001.**
- 3. SISY JOHNSON, W/O.JOHNSON, AGED ABOUT 44 YEARS,
KOLADY HOUSE, HIGH SCHOOL ROAD, PAZHANHI POST,
THRISSUR DISTRICT.**

**R1 BY ADV. SRI.P.VENUGOPAL
R2 BY ADV. SMT.R.REMA**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 24-06-2015, ALONG WITH MACA. 2250/2010, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

P.B.SURESH KUMAR, J.

M.A.C.A.Nos.1288 & 2250 of 2010

Dated this the 24th day of June, 2015

JUDGMENT

The driver and owner of a vehicle involved in an accident, which was the subject matter of a claim petition before the Motor Accidents Claims Tribunal have come up in these appeals challenging the decision of the Tribunal.

2. One Sisy Johnson filed the claim petition, alleging that she sustained injuries in the accident took place on 1.1.2007 involving a tempo van driven by the appellant in M.A.C.A No.1288 of 2010 and owned by the appellant in M.A.C.A No.2250 of 2010. The insurer of the vehicle contested the claim petition contending, among others, that the appellant in M.A.C.A No.1288 of 2010 was not holding the badge required to drive the transport vehicle involved in the accident. The Tribunal accepted the said contention of the insurer and permitted them

to recover the compensation directed to be paid to the claimant from the appellants. The appellants are therefore aggrieved by the said decision of the Tribunal.

3. Heard the learned counsel for the appellants.

4. In **National Insurance Co.Ltd. vs. Jisha [2015 (1) KLT 1]**, a Full Bench of this Court held that want of badge to drive the transport vehicle involved in the accident is not a ground available to the insurer to claim exoneration from the liability to indemnify the owner of the vehicle. In the light of the judgment of this Court, the impugned order is liable to be modified.

In the result, the appeals are allowed and the direction issued by the Tribunal, permitting the insurer in the proceedings to recover the compensation from the appellants is vacated.

P.B.SURESH KUMAR, JUDGE.

smm