

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

MACA.No. 1297 of 2010

**OP(MV) 615/2005 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,
KASARAGOD DATED 14-01-2010**

APPELLANT(S)/3RD RESPONDENT IN OP(MV) 615/05:

**NATIONAL INSURANCE COMPANY LTD.,
BRANCH OFFICE, KASARAGOD, REPRESENTED BY ITS
MANAGER, REGIONAL OFFICE, OMANA BUILDINGS,
M.G.ROAD, ERNAKULAM.**

BY ADV. SRI.LAL GEORGE

RESPONDENT(S)/PETITIONER & RESPONDENTS 1 & 2 IN OP(MV) 615/05:

- 1. ABBAS, S/O. ARABI SOOPI,
RESIDING AT PARAYANGANAM, MOVVAL POST,
PALLIKKARA VILLAGE, HOSDURG TALUK, PIN-577 527.**
- 2. AHAMMED A.M., S/O. ABDULLA KUNHI,
RESIDING AT MATHANKAL HOUSE, MOODAMBAYAL
THEKKIL VILLAGE, P.O.THEKKIL, PIN-671 541
HOSDURG TALUK.**
- 3. P.J.ABDUL LATHEEF, S/O. ABOOBACKER,
M/S. DING DONG RASIK CHAMBERS, MARKET ROAD,
MANGALORE P.O., SOUTH CANARA, KARNATAKA,
PIN-575 001.**

**R2 BY ADVS. SRI.T.H.ABDUL AZEEZ
SMT.M.ISHA**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 18-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

P.B.SURESH KUMAR, J.

M.A.C.A.No.1297 of 2010

Dated this the 18th day of June, 2015

JUDGMENT

The insurer in a proceedings for compensation before the Motor Accidents Claims Tribunal has come in this appeal challenging the decision of the Tribunal.

2. The first respondent filed the claim petition alleging that he sustained injuries in an accident took place on 23-5-2003 involving a motor cycle owned by the third respondent and ridden by the second respondent. The appellant was the insurer of the said vehicle. The appellant contested the claim petition, contending among others, that the second respondent was not holding a driving licence at the time of the accident and therefore, they are not liable to indemnify the owner of the vehicle. The Tribunal rejected

the said contention of the appellant and permitted the claimant to recover the compensation determined as due to him from the appellant. The appellant is aggrieved by the said decision of the Tribunal.

3. Heard the learned Counsel for the appellant and the learned Counsel for the second respondent.

4. As noticed above, the contention of the appellant is that the second respondent was not holding a driving licence at the time of accident. It is seen that in the course of proceedings before the Tribunal, the appellant filed I.A No.1799 of 2009 seeking directions to the second respondent to produce his driving licence before the Tribunal. Though the Tribunal directed the second respondent to produce his driving licence as per the order passed in the said interlocutory application, the second respondent has not produced his driving licence before the Tribunal. As such, it has to be taken that the second respondent was not holding a licence to drive the vehicle

involved in the accident. The fact that want of driving licence for the driver of the vehicle involved in the accident would amount to breach of the terms of the policy is not disputed. As such, the appellant is entitled to recover the compensation determined as due to the claimant from the owner of the vehicle involved in the accident.

In the result, the appeal is allowed in part and the impugned award is modified permitting the appellant to recover the compensation directed to be paid to the claimant from the owner of the vehicle.

P.B.SURESH KUMAR, JUDGE.

smm