

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

MACA.No. 2264 of 2014 ()

OPMV 2462/2008 of M.A.C.T.,ERNAKULAM

APPELLANT(S)/1ST RESPONDENT:

M.S.SAJEEV
S/O.SHANMUGHAN, MUZHAGUMTHARA HOUSE
1221/B/50 JAWAN CROSS ROAD, PONEKKARA, COCHIN-26.

BY ADVS.SRI.T.K.KOSHY
SRI.ABE RAJAN

RESPONDENT(S)/2ND RESPONDENT:

THE UNITED INDIA INSURANCE CO. LTD.
D.O.1, VETTUKATTIL BUILDINGS, M.G.ROAD
ERNAKULAM COCHIN, PIN-682 016

BY ADV. SRI.P.K.MANOJKUMAR,SC,
BY ADV. SRI.N.S.MOHAMMED USMAN
BY SRI.JOHN JOSEPH VETTIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 24-02-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.2264 of 2014

Dated 24th February, 2015.

J U D G M E N T

The owner-cum-driver of the vehicle in a proceedings for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the decision of the Tribunal.

2. One P.T.Biju instituted the proceedings referred to above claiming compensation from the appellant and the respondent, alleging that he sustained injuries in the accident took place on 22.1.2008 involving the vehicle owned and driven by the appellant and insured by the respondent. The respondent contended in the proceedings that the appellant was not duly licensed to drive the vehicle and therefore, they are not liable to indemnify him. The Tribunal held that the validity of the driving licence of the appellant had expired on 18.11.2007 and the same was renewed only after the accident, on 2.2.2008. Consequently, the Tribunal permitted the respondent to recover from the appellant the compensation directed to be paid to the claimant, holding that the appellant was not duly licensed as on the date of the accident. The

appellant is aggrieved by the said direction of the Tribunal and hence the appeal.

3. Heard the learned counsel for the appellant and the learned counsel for the respondent.

4. In **Oriental Insurance Company Limited v. Poulose and another** (2015(1) KHC 597), a Larger Bench of this Court held that on renewal of a driving licence, the driver of the vehicle could not have been held to be holding a valid driving licence from the date of the expiry till the date of renewal. Paragraph 19 of the said judgment reads thus :

“19. It is beyond dispute that the licence would stand renewed automatically only if the application for renewal is filed within a period of thirty days from the date of expiry thereof. In such cases, even if an accident takes place within the aforementioned period, the driver may be held to be possessing a valid driving licence. The proviso to sub-section (1) of Section 15 makes it clear that the driving licence shall be renewed with effect only from the date of the renewal, in the event of an application for renewal of licence being made more than thirty days after the date of its expiry. That means, on the renewal of licence on such terms, the driver of the vehicle cannot be said to have been holding a valid driving licence from the date of expiry till the date of renewal.”

It was also held by the Larger Bench in the said case that in such cases, the insurer would be entitled to recover the compensation from the insured. Paragraph 26 of the judgment

in the said case dealing with the right of the insurer to recover the compensation from the insured reads thus :

“26. In Swaran Singh's case (cited supra), it was further observed by the Apex Court that even after arriving at a conclusion that the insurer has satisfactorily proved its defence in accordance with the provisions of Sections 149(2) read with sub-section (7), it can be directed to satisfy the award reserving the insurer's right to recover the same from the insured. We see no reason why the said course shall not be followed in this case. It is relevant to note that the Apex Court in Ram Babu Tiwari v. United India Insurance Co. Ltd. (cited supra) did not interfere with the decision of the High Court directing recovery.”

In the light of the decision of the Larger Bench referred to above, there is no merit in this appeal and the appeal is accordingly, dismissed.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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(true copy)