

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

MACA.No. 1713 of 2010

**O.P(M.V)NO. 477/2004 OF MOTOR ACCIDENT CLAIMS TRIBUNAL,
NEYYATTINKARA DATED 31-12-2009**

APPELLANT(S)/2ND RESPONDENT :

**THE ORIENTAL INSURANCE CO. LTD.,
METRO PALACE, GROUND FLOOR, OPP. NORTH RAILWAY STATION,
ERNAKULAM, REPRESENTED BY ITS DULY AUTHORIZED OFFICER.**

BY ADV. SRI.V.P.K.PANICKER

RESPONDENT(S)/1ST RESPONDENT & PETITIONER :

- 1. SURAJ,
KUNNUMPURATHU VEEDU, KARINPALLOOR,
PUTHENKULAM, KOLLAM.**
- 2. RADHAKRISHNAN,
ROADARIKATHU PUTHEN VEEDU, KAKKANAM,
MARAYAMUTTOM P.O., NEYYATTINKARA.**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 13-07-2015, ALONG WITH MACA.No. 2388 OF 2010 AND
MACA.No. 2505 OF 2010, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

P.B.SURESH KUMAR, J.

**M.A.C.A.Nos.1713, 2388
& 2505 of 2010**

Dated this the 13th day of July, 2015

JUDGMENT

The common insurer in three different claim petitions before the Motor Accidents Claims Tribunal has come up in these appeals, challenging the decision in the claim petitions.

2. The claim petitions referred to above were filed alleging that the claimants sustained injuries in the accident took place on 21.12.2003, involving an autorickshaw owned and driven by the common first respondent in the appeals. The appellant was the insurer of the autorickshaw involved

in the accident. The appellant contested the claim petitions, contending among others, that the first respondent was not holding an authorisation to drive the transport vehicle involved in the accident (badge) and as such, they are entitled to be exonerated from the liability to indemnify the owner. The said contention was rejected by the Tribunal and hence these appeals.

In **National Insurance Co.Ltd. vs. Jisha** (2015 (1) KLT 1) a Full Bench of this Court has held that want of authorisation to drive the vehicle (badge) is not sufficient to claim exoneration from the liability to indemnify the owner in a case like this. In the light of the said decision of this Court, these appeals are dismissed.

P.B.SURESH KUMAR, JUDGE.

smm