

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

MACA.No. 2419 of 2014 ()

AGAINST THE AWARD IN OPMV 1570/2006 of M.A.C.T., ERNAKULAM
DATED 28-04-2011

APPELLANT/IST RESPONDENT:

SUNNY A.M, AGED 57 YEARS
S/O. MATHEW, ALANOLY HOUSE, 45/1827
KSU ROAD, KOCHI - 682 012.

BY ADVS.SRI.JAMES ABRAHAM (VILAYAKATTU)
SRI.K.BINNI

RESPONDENT/RESPONDENT:

NATIONAL INSURANCE CO.LTD.
AJAY VIHAR, IST FLOOR, M.G. ROAD
KOCHI - 682 016.

R1 BY ADV. SRI.GEORGE CHERIAN (SR.)
R1 BY ADV. SMT.K.S.SANTHI
R1 BY ADV. SMT.LATHA SUSAN CHERIAN
R BY SRI.M.A.GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

T.R.RAMACHANDRAN NAIR & P.V ASHA, JJ.

M.A.C.A No.2419 of 2014

Dated this the 6th day of March, 2015

JUDGMENT

Ramachandran Nair, J.

The appellant herein is the registered owner of the vehicle involved in the accident, namely, a tempo van having registration No.KL-7/F-5081. He is aggrieved by the finding of the Tribunal that the driver of the offending vehicle was not having valid driving license.

2. Heard the learned counsel for the appellant and the learned counsel for the Insurance Company. The learned counsel for the appellant relied upon Annexure-A1 produced along with I.A.No.2785 of 2014 to contend that the driver was having valid license at the time of occurrence of the accident, namely on 8.8.2005. It is submitted that Annexure-A1 was obtained under the Right to Information Act from the Sub Regional Transport Office, Koduvally. The learned counsel for the Insurance Company submitted that without producing the original license, particulars obtained under the Right to Information Act cannot be relied upon by the appellant. At this

stage, the learned counsel for the appellant submitted that if an opportunity is granted to the appellant to adduce evidence in the matter, he will be able to satisfy the Tribunal that the driver had valid license as on the date of occurrence.

3. We find from the award that the appellant and the driver remained *exparte*. Since the contention was that the driver was having no license, liability was fastened on the appellant also and the Insurance Company was ordered to pay the amount to the victim with liability to recover it. We permit the appellant to file a written statement incorporating various details of the license and therefore *exparte* award is set aside for the above purpose alone.

4. The appeal is remanded back to the Tribunal only to decide the above issue. The finding already made in the award regarding the quantum of compensation and the finding on the negligence on the part of the driver, will stand confirmed.

5. In that view of the matter, we vacate the finding that the driver had no valid license at the time of the accident and making the registered owner liable to satisfy the award after the insurer pays the amount to the claimant. It is also informed by the learned counsel for the Insurance Company that they have

already paid the amount to the victim.

The appeal is allowed to that extent. The parties will suffer their respective costs in the appeal.

Sd/-

T.R.RAMACHANDRAN NAIR
Judge

Sd/-

P.VASHA
Judge

rtr/

/true copy/

P.S to Judge