

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

MACA.No. 2907 of 2014 ()

AGAINST THE AWARD IN OPMV 1503/2007 of MACT, IRINJALAKUDA

APPELLANT(S)/APPLANT/1ST RESPONDENT:

**SUBHADRA
W/O.VIKRAM SINGH, NALUMAKKAL HOUSE, MURIYAD VILLAGE
DESOM P.O, MUKUNDAPURAM TALUK, THRISSUR DISTRICT**

BY ADV. SRI.V.BINOY RAM

RESPONDENT(S)/RESPONDENTS/PETITIONER/RESPONDENTS 2 & 3:

- 1. JOSE
S/O.RAPPAI, POZHOLIPARAMBIL HOUSE, KALLANKUNNU DESOM
NADAVARAMBA P.O, MUKUNDAPURAM TALUK, THRISSUR DISTRICT
PIN 680 683**
- 2. VIJESH
S/O.VISWAMBARAN, THAYYIL HOUSE, MURIYAD VILLAGE
DESOM P.O, MUKUNDAPURAM TALUK
THRISSUR DISTRICT PIN 680 683**
- 3. THE MANAGER
THE NeW INDIA ASSURANCE CO.LTD
PERINCHERY BUILDING , ROUND NORTH
THRISSUR PIN 680 020**

**R3 BY ADV. SMT.M.HEMALATHA
R BY SRI.A.A.ZIYAD RAHMAN**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
17-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

MACA.No. 2907 of 2014 ()

APPENDIX

PETITIONERS ANNEXURE

ANNEXURE 1 COPY OF THE AGREEMENT DATED 12.10.2006

RESPONDENTS ANNEXURE

NIL

TRUE COPY

PA TO JUDGE

SMM

P.B.SURESH KUMAR, J.

M.A.C.A.No.2907 of 2014

Dated this the 17th day of August, 2015

JUDGMENT

The owner of the vehicle involved in an accident which was the subject matter of a claim petition before the Motor Accidents Claims Tribunal has come up in this appeal challenging the decision of the Tribunal.

2. The first respondent filed the claim petition alleging that he sustained injuries in the accident took place on 4.11.2007, involving a vehicle owned by the appellant and driven by the second respondent. The third respondent was the insurer of the vehicle. The third respondent contested the claim petition mainly on the ground that the second respondent was not holding a licence to drive the vehicle at the time of accident. The Tribunal accepted the

said contention of the third respondent and while passing the award permitting the first respondent to recover a sum of Rs.15,593/- from the third respondent by way of compensation, permitted the third respondent to recover the compensation from the appellant. The appellant is aggrieved the said direction issued by the Tribunal.

3. Heard the learned counsel for the appellant as also the learned counsel for the third respondent.

4. As noticed above, the third respondent was permitted to recover the compensation from the appellant on the ground that the second respondent was not holding a licence to drive the vehicle at the time of the accident. In this appeal, the appellant has produced the driving licence of the second respondent. The original of the driving licence produced before this Court indicates that the second respondent was having a valid driving licence at the time of accident. The impugned award, in the circumstances, is liable to be modified.

In the result, the appeal is allowed and the direction contained in the impugned award permitting the third respondent to recover the compensation from the appellant is vacated. The Tribunal shall release to the appellant the pre-deposit made by him under Section 173 (2) of the Motor Vehicles Act. The Registry is directed to return to the appellant the original of the driving licence produced by him in the appeal, after retaining a copy of the same.

P.B.SURESH KUMAR, JUDGE.

smm