

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

MACA.No. 3318 of 2014 ()

OPMV 772/2009 of MACT, THODUPUZHA.

APPELLANT/2ND RESPONDENT:

RELIANCE GENERAL INSURANCE CO.LTD
COCHIN, REPRESENTED BY ITS DEPUTY MANAGER
REGIONAL OFFICE, ERNAKULAM.

BY ADVS.GEORGE CHERIAN
SMT.LATHA SUSAN CHERIAN
SMT.K.S.SANTHI

RESPONDENT/CLAIMANT & 1ST RESPONDENT:

1. THOMAS
S/O DEVASSIA, KUZHIITHOTTU HOUSE
VELLILAMKANDOM BHAGAM, KALTHOTTI KARA
Ayyappan Kovil Village, Idukki District, PIN:685 001.
2. JIJUMON K.B.
S/O BALAKRISHNAN, KUTTIKATTU (H), ELLACKAL P.O.
ADIMALY-685 565.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.3318 of 2014

Dated 12th February, 2015.

J U D G M E N T

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

2. The first respondent filed the petition for compensation, alleging that he sustained injuries in an accident took place on 3.11.2008, involving a taxi car owned and driven by the second respondent. The appellant was the insurer of the vehicle involved in the accident.

3. The second respondent remained ex parte. The appellant contested the petition contending that the claim for compensation is exorbitant and that the second respondent was not holding an authorisation to drive a transport vehicle like the one involved in the accident.

4. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to a sum of Rs.77,960/- by way of compensation and passed an award permitting the claimant to recover the said amount from the appellant. The contention raised by the appellant that the

second respondent was not holding an authorisation to drive the transport vehicle has not been considered. The appellant, in the circumstances, is aggrieved by the award of the Tribunal and hence the appeal.

5. Heard the learned Senior Counsel for the appellant.

6. The learned Senior Counsel for the appellant contended that the claimant in the proceedings sustained only minor injuries and that the compensation granted to him is therefore, unreasonably excessive. He has also pointed out that the contention raised by the insurer that the driver of the vehicle involved in the accident was not holding an authorisation to drive a transport vehicle has not been considered by the Tribunal.

7. I do not find any merit in the contention raised by the learned Senior Counsel. A Full Bench of this Court has now held in **National Insurance Company Ltd. v. Jisha** (2015(1) KLT 1) that want of authorisation for the driver of the vehicle involved in an accident would not absolve the insurer of the vehicle from the liability to indemnify the owner.

8. Coming to the contention that the quantum of compensation granted is excessive, it is seen that the claimant

sustained various injuries including fracture of left calcaneum. He was admitted and treated as inpatient for the injuries sustained by him. Ext.A7 is the disability certificate issued to the claimant by the Medical Board attached to the District Hospital, Idukki. In Ext.A7, the Medical Board assessed the permanent disability sustained by the claimant on account of the accident at 5%. The claimant was only 45 years at the time of accident. It is seen that the Tribunal had awarded to him a sum of Rs.200/- towards bystander's expenses, Rs.1,000/- towards transportation expenses, Rs.1,000/- towards extra nourishment, Rs.500/- towards damage to clothing, Rs.2060/- towards reimbursement of the medical expenses incurred, Rs.12,000/- towards loss of earnings for a period of three months, Rs.15,000/- towards pain and sufferings, Rs.15,000/- towards loss of amenities and Rs.31,200/- towards compensation for continuing the disability. In the nature of injuries and the extent of disability sustained by the claimant on account of the accident, he being a person aged 45 years, I am of the view that the compensation granted by the Tribunal represents the just compensation payable to him.

There is, therefore, no merit in the appeal and the same is

accordingly, dismissed.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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