

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

RP.No. 942 of 2013 () IN MACA.2077/2009

AGAINST THE ORDER/JUDGMENT IN MACA 2077/2009 of HIGH COURT OF KERALA
DATED 19-01-2012
REVIEW PETITIONER(S):2ND RESPONDENT

SAIDALAVI
S/O.BICHUMMA, KIZHAKKEKARA HOUSE, KARADUPARAMBA POST
FEROKE COLLEGE, MALAPPURAM.

BY ADV. SRI.VINOD VALLIKAPPAN

RESPONDENT(S):APPELLANT & RESPONDENT NO.1

1. UNITED INDIA INSURANCE CO. LTD.
KALLAI ROAD, KOZHIKODE 673 001.

2. E.ALI
EDAKKATTU HOUSE, KARADUPARAMBA POIST, AZHINILAM AMSOM
DESOM, VIA FEROKE COLLEGE
MALAPPURAM DISTRICT 678 001.

R2 BY ADV. SRI.THOMAS ANTONY
R1 BY SRI.P.V.JYOTHI PRASAD

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 29-07-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**T.R. RAMACHANDRAN NAIR &
A.V. RAMAKRISHNA PILLAI, JJ.**

R.P.No.942/2013 in MACA No.2077/2009

Dated this the 29th day of July, 2015

ORDER

Ramachandran Nair, J.

The review petitioner is the registered owner of a vehicle who is aggrieved by the direction by this Court by which the insurance company was permitted to recover the amount of compensation after paying it to the claimant.

2. This Court found that at the time when the accident occurred, the driver of the vehicle did not have a current driving licence which amounts to a violation of the conditions of policy.

3. Heard learned counsel on both sides.

4. Learned counsel for the review petitioner submitted the review petitioner was out of India at the time of disposal of the appeal and the claim petition and therefore could not bring to the notice of this Court and the Tribunal various aspects.

5. Along with the review petition, the review petitioner has

produced Annexures A1 and A2 documents. Annexure A2 gives the licence number as 11/1851/1993 and Badge number as 11/214/1993. The same is obtained under the Right to Information Act.

6. Learned counsel for the insurance company submitted that the above document is not sufficient to hold that there was a valid driving licence as on the date of accident.

7. Learned counsel for the review petitioner pointed out that if an opportunity is granted to the review petitioner, the necessary evidence will be made available before the Tribunal. Since it is a crucial aspect concerning the liability of the owner, an opportunity can be granted. We therefore pass the following order:

We vacate the finding regarding want of driving licence and delete the direction in paragraph 4 of the judgment permitting the insurance company to recover the amount from the owner of the autorickshaw and recall the judgment in appeal. The amount will be paid to the claimant but subject to further orders to be passed by the Tribunal. After taking evidence in the matter and hearing the parties and depending upon the question whether there was valid licence or

not, appropriate directions will be issued by the Tribunal. The matter is remanded back for consideration by the Tribunal only on the question whether the driver was having a valid driving licence on the date of accident.

The review petition is disposed of as above. No costs.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(A.V. RAMAKRISHNA PILLAI, JUDGE.)

kav/