



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

TUESDAY, THE 31ST DAY OF MARCH 2026 / 10TH CHAITHRA, 1948

MACA NO. 3848 OF 2016

AGAINST THE AWARD DATED 17.10.2015 IN OPMV NO.841 OF
2011 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA

APPELLANT/3RD RESPONDENT:

UNITED INDIA INSURANCE COMPANY LIMITED,
REGIONAL OFFICE, HOSPITAL ROAD ERNAKULAM,
COCHIN 682 035.

BY ADV SRI.JOHN JOSEPH VETTIKAD

RESPONDENTS/PETITIONERS & RESPONDENTS 1 AND 2:

- 1 E.G.SAHADDEVAN,
AGED ABOUT 61 YEARS, RESIDING AT EZHUVANTHARA
HOUSE,VALLIVATTOM, KOONOTHUKUNNU, THRISSUR.
- 2 E.G.SANTHA,
AGED ABOUT 63 YEARS, RESIDING AT EZHUVANTHARA
HOUSE, VALLIVATTOM,KOONOTHUKUNNU, THRISSUR.
- 3 E.H.SATHYABHAMA,
EZHUVANTHARA HOUSE,VALLIVATTOM, KOONOTHUKUNNU,
THRISSUR.
- 4 E.G.BASI,
EZHUVANTHARA HOUSE,VALLIVATTOM, KOONOTHUKUNNU,
THRISSUR.
- 5 E.G.GOPI,
EZHUVANTHARA HOUSE,VALLIVATTOM, KOONOTHUKUNNU,
THRISSUR.



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- 6 E.G.SINI,
EZHUVANTHARA HOUSE,VALLIVATTOM, KOONOTHUKUNNU,
THRISSUR.
- 7 E.G.REGHA,
EZHUVANTHARA HOUSE,VALLIVATTOM, KOONOTHUKUNNU,
THRISSUR.
- 8 PRASAD
AGED ABOUT 49 YEARS, RESIDING AT PARAMBATHU-
PARAMBIL HOUSE, KOOTHUPARAMBU P.O.,
WATER TANK ROAD, IRINJALAKUDA.
- 9 ARJUN PRASAD
AGED ABOUT 22 YEARS, RESIDING AT PARAMBATHU-
PARAMBIL HOUSE,KOOTHUPARAMBU P.O.,
WATER TANK ROAD,IRINJALAKUDA.
- 10 AYANA
AGED ABOUT 18 YEARS,RESIDING AT PARAMBATHU-
PARAMBIL HOUSE,KOOTHUPARAMBU P.O.,
WATER TANK ROAD,IRINJALAKUDA.
- 11 PRAJEESH,
AGED 24 YEARS, PUTHUKKATT HOUSE,PALAPRAKUNNU,
THEKKUMKARA VILLAGE,KODUNGALLUR.
- 12 VARGHESE,
SON OF PAILE, 3/21, PARAKKADAN HOUSE,VELUKKARA,
NADAVARAMBU P.O.

BY ADV SRI.SHEJI P.ABRAHAM

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 31.03.2026, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

**“C.R”****JUDGMENT**

This appeal has been preferred by the insurance company/3rd respondent in OP(MV) No. 841/2011 of the Motor Accidents Claims Tribunal, Irinjalakuda [hereinafter referred to as 'the Tribunal'], on the ground that, since R1 in the O.P, who was the driver of the autorickshaw, had no badge to drive the autorickshaw, there was violation of policy conditions and therefore, the insurance company has got right of recovery of the award amount from the registered owner of the vehicle.

2. Claimants filed the O.P seeking compensation under Section 166 of the Motor Vehicles Act in respect of the death of Bhargavi, who died in a motor vehicle accident on 01.06.2011.

3. According to the claimants, while Bhargavi was travelling in an autorickshaw bearing Reg.No.KL-8/G 6686 driven by the 1st respondent in the O.P, the autorickshaw fell into a dip, and as a result of which, victim Bhargavi sustained fatal injuries and she succumbed to the injuries. The accident occurred due to the rash and negligent driving of the autorickshaw by the 1st respondent.



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R2 is the RC owner of the vehicle and R3 is the insurer. Claimants sought compensation from R1 to R3.

4. Before the tribunal, respondents 1 and 2 in the O.P remained absent, and they were set ex parte.

5. The Insurance company filed written statement stating that though the autorickshaw involved in the accident had valid insurance coverage, 1st respondent in the O.P, who was the driver of the said autorickshaw had no badge to drive the vehicle and therefore, there was a violation of policy conditions and accordingly, the insurance company is not liable to indemnify the owner.

6. After trial, the learned Tribunal passed an award for Rs.1,55,000/- with 8% interest per annum and cost.

7. The sole contention raised by the learned counsel for the insurance company is that since the driver of the offending autorickshaw had no badge to drive the transport vehicle, there was violation of policy conditions and the insurance company should be granted the right to recover the award amount from the registered owner under the "pay and recovery" principle.



8. However, this issue is no longer res integra. In *Mukund Dewangan v. Oriental Insurance Company Limited* [2017 (4) KHC 648], the Hon'ble Supreme Court held as follows:

"A transport vehicle and omnibus, the gross vehicle weight of either of which does not exceed 7500 kg. would be a light motor vehicle and also motor car or tractor or a road roller, 'unladen weight' of which does not exceed 7500 kg. and holder of a driving licence to drive class of "light motor vehicle" as provided in S.10(2)(d) is competent to drive a transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7500 kg. or a motor car or tractor or road - roller, the "unladen weight" of which does not exceed 7500 kg. That is to say, no separate endorsement on the licence is required to drive a transport vehicle of light motor vehicle class as enumerated above."

9.. The Court clarified that if a driver is holding licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect. Hence the requirement of a "badge" or "transport vehicle endorsement" is not a mandatory condition for driving a light transport vehicle like an autorickshaw. The absence of a badge, therefore, does not amount to a fundamental breach of policy conditions.

10. The correctness of the said judgment was subsequently referred to a Constitution Bench in *Bajaj Alliance General Insurance Co. Ltd. v. Rambha Devi* [2024 KHC OnLine 6607], which unanimously upheld the decision in *Mukund Dewangan*



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(supra). The Constitution Bench held that a driver holding a licence for the Light Motor Vehicle (LMV) class for vehicles with a gross vehicle weight under 7,500 kg is permitted to operate a 'Transport Vehicle' without the need of additional authorisation under Section 10(2)(e) of the Motor Vehicles Act.

11. In the decision cited supra the Hon'ble Apex Court concluded as follows:

"131. Our conclusions following the above discussion are as under:
(I) A driver holding a license for Light Motor Vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross vehicle weight under 7,500 kg, is permitted to operate a 'Transport Vehicle' without needing additional authorization under Section 10(2)(e) of the MV Act specifically for the 'Transport Vehicle' class. For licensing purposes, LMVs and Transport Vehicles are not entirely separate classes. An overlap exists between the two. The special eligibility requirements will however continue to apply for, inter alia, e-carts, e- rickshaws, and vehicles carrying hazardous goods.
(II) The second part of Section 3(1), which emphasizes the necessity of a specific requirement to drive a 'Transport Vehicle,' does not supersede the definition of LMV provided in Section 2(21) of the MV Act.
(III) The additional eligibility criteria specified in the MV Act and MV Rules generally for driving 'transport vehicles' would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7,500 kg i.e. 'medium goods vehicle', 'medium passenger vehicle', 'heavy goods vehicle' and 'heavy passenger vehicle'.
(IV) The decision in Mukund Dewangan (2017) is upheld but for reasons as explained by us in this judgment. In the absence of any obtrusive omission, the decision is not per incuriam, even if certain provisions of the MV Act and MV Rules were not considered in the said judgment."



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12. In view of the above settled legal position, there is no merit in the contention put forward by the Insurance Company that, since the driver of the autorickshaw had no badge, the insurance company is entitled to recover the award amount from the RC owner of the vehicle. The Tribunal was, therefore, fully justified in not granting any such right.

In view of the above findings, this appeal stands dismissed.
No cost.

Sd/-
M.B.SNEHALATHA,
JUDGE

SLR/Mms