

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH**

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

MACA.No. 1145 of 2004 ()

**AGAINST THE AWARD IN OP(MV) 316/1999 OF MOTOR ACCIDENTS CLAIMS
TRIBUNAL,KOTTAYAM DATED 30-08-2003
APPELLANT/PETITIONER::**

**K.U.JOHN
KIZHAKKEL HOUSE, THOTTACKADU, KOTTAYAM DIST.**

**BY ADVS. SMT.MINI ELIZABETH GEORGE
SMT. BETTY K. ALUKKA**

RESPONDENTS/RESPONDENTS::

**1. HARISH
PLAMTHOTTATHIL HOUSE, MULLOORKAVU, THRIKODITHANAM
KOTTAYAM DIST.**

**2. NATIONAL INSURANCE CO. LTD.,
REPRESENTED BY ITS DIVISIONAL MANAGER, KOTTAYAM.**

R2 BY ADV. SRI.M.A.GEORGE

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
29-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

SHG/

T.R. RAMACHANDRAN NAIR & K.P. JYOTHINDRANATH, JJ.

M.A.C.A.No.1145 of 2004

Dated this the 29th day of June, 2015

J U D G M E N T

K.P. Jyothindranath, J.

This appeal is preferred by the claimant in O.P.(M.V.) No.316/1999 on the file of the Motor Accidents Claims Tribunal, Kottayam. The grievance of the appellant is that even though he has sustained grievous injuries in a motor vehicle accident occurred on 16.9.1998, the Tribunal awarded only a meager amount as compensation.

2. The facts in a nutshell is that while the appellant was travelling in an autorickshaw bearing registration No.KL5 F 3874 the appellant was thrown out of the auto rickshaw due to the rash and negligent driving of the vehicle and as such he sustained grievous injuries. The case of the appellant is that at first the appellant was treated in the hospital wherein injuries noted are only lacerated deep irregular injury on the frontal region of head and another lacerated injury near the left ear. No oral

evidence adduced. According to the appellant, thereafter the appellant was again admitted in Lisie Hospital, Cochin and treated therein as inpatient. It is the case of the appellant that even though medical bills worth Rs.20,932/- produced as Ext.A9 series, the said bills were not reimbursed by the Tribunal on the ground that there is nothing to show that the said treatments were for the injuries sustained in the said accident. It is the case of the appellant that there was disc prolapse and he had undergone operation. It is also the case of the appellant that even thereafter he was continuing his treatment even from Medical College Hospital.

3. The challenge is against the appreciation of fact regarding whether there was any nexus in between the treatments undergone by the appellant at Lisie Hospital and thereafter, and whether the disc prolapse is a direct consequence of the accident. On these aspects there is no evidence seen in the records.

4. It will be only just and proper to give an

opportunity to the appellant to adduce evidence in this regard, if any. Thus the impugned award is hereby set aside and the matter is remanded back to the Tribunal for a fresh disposal. The parties will be at liberty to produce documentary and oral evidence. It is made clear that the amount so far paid need not be remitted back and can be treated as an interim compensation. Thus the appeal is remanded back to the Tribunal for fresh disposal untrammelled by any of the observations made above.

There will be no order as to costs in the appeal.

Sd/-
T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-
K.P. JYOTHINDRANATH
JUDGE

//True copy//

P.A. TO JUDGE

shg/