

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

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

MACA.No. 931 of 2012 ()

AGAINST THE AWARD IN OPMV 880/2009 of MACT PALA DATED 23-01-2012
APPELLANT(S)/PETITIONER:

MARIAMMA REJI @ MOLLY
W/O. REGIMON, PULIPRATHU HOSUE, PEROOR VILLAGE
THELLAKOM KARA
KOTTAYAM DISTRICT NOW RESIDING AT C/O. KURIAN .P.MATHEW
PODIMATTATHIL HOSE, VELLAPPADU, PALA.P.O.
PALA.

BY ADVS.SRI.C.M.TOMY
SRI.MATHEW SKARIA
SRI.K.J.JOSEMON

RESPONDENT(S) :

1. SHINU MOHANAN
S/O. MOHANAN, ARACKAPARAMBIL HOUSE, PAMPADY VILLAGE
VELLOOR.P.O., GRAMATTOM BHAGOM, KOTTAYAM-686501.

2. THE ORIENTAL INSURANCE CO.LTD.
REP. BY ITS DIVISIONAL MANAGER, TRIO CHAMBERS
KOTTAYAM-686001.

R2 BY ADV. SRI.M.JACOB MURICKAN
R BY SRI.GEORGE CHERIAN (THIRUVALLA)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 12-02-2015, ALONG WITH MACA 1501/2012 THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

**T.R. RAMACHANDRAN NAIR &
P.V. ASHA, JJ.**

M.A.C.A.Nos.931 and 1501 of 2012

Dated this the 12th day of February, 2015

JUDGMENT

Asha, J.

The appellants in these appeals are the claimants in O.P.(MV) Nos.880/2009 and 897/2009 on the file of the Motor Accidents Claims Tribunal, Pala. Both of them sustained injuries on account of an accident which occurred on 24.5.2009. The appellant in MACA No.1501/2012 - the husband was riding motor cycle bearing Reg. No.KL-5/Y 9801 and the appellant in M.A.C.A. No.931/2012 - the wife was a pillion rider. The motor bike collided with another motor cycle and both of them were taken to Medical College Hospital, Kottayam and thereafter to Matha Hospital, Thellakom.

2. The claim petitions were filed seeking compensation to the tune of Rs.1,50,000/- each in the respective petitions. The Tribunal awarded a sum of Rs.30,250/- along with interest at 7.5% in the case of husband and a sum of Rs.56,300/- along with interest at the rate of

7.5% in the case of the wife.

3. These appeals are filed mainly on the ground that the expenses incurred towards treatment were disallowed by the Tribunal on the reason that the bills produced were duplicate bills. It is the case of the appellants that the original bills were produced for obtaining the benefit under the insurance policy and therefore they could produce only the duplicate bills issued from the hospital.

4. We heard learned counsel on either side.

5. Learned counsel for the insurance company pointed out that the expenses towards treatment cannot be granted in the absence of original bills.

6. We find that the appellants have not examined any witnesses in order to prove the bills. Learned counsel for the appellants submitted that in case an opportunity is given to them, further evidence can be adduced in support of their claim.

7. In the above circumstances, since the Tribunal has rejected the claim for treatment expenses for want of original bills, we are of the view that the appellants can be afforded an opportunity for adducing

further evidence in the matter.

8. Therefore, we set aside the awards passed in O.P.(MV) Nos.880/2009 and 897/2009 and remand the cases for fresh trial. Parties shall be given opportunity to adduce further evidence in the matter.

The appeals are accordingly disposed of. No costs. The parties shall appear before the Tribunal on 6.4.2015.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

kav/