

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 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

MACA.No. 2430 of 2012 ()

AGAINST THE AWARD IN OPMV 34/2002 ON THE FILE OF THE MOTOR ACCIDENTS
CLAIMS TRIBUNAL,ATTINGAL DATED 31-05-2012

APPELLANT/APPLICANT:

BABU.V.

S/O.VASU, KEERTHY VIHAR, KURIYODE
CHADAYAMANGALAM P.O., KOLLAM DISTRICT.

BY ADVS.SRI.RAM MOHAN.G.

SRI.G.P.SHINOD

SRI.MANU V.

RESPONDENTS/RESPONDENTS:

1. BIJU.M.K.

S/O.KARUNAKARAN, KARTHIKA, KUTTIKADU
KUTTIKADU P.O.KOLLAM - 690101

2. SANNI S.

S/O.SREEDHARAN, MANGALATHU VEEDU, KALYANI MUKKU
VAYYANAM P.O., AYOOR, KOLLAM DISTRICT- 690101

3. UNITED INDIA INSURANCE COMPANY LIMITED

NAVANEETHA BUILDING, OPPOSITE TO RAILWAY STATION
KUNDARA, KOLLAM DISTRICT-690101

R3 BY ADV. SRI.P.V.JYOTHI PRASAD

R BY SRI.JOHN JOSEPH VETTIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AL/-

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

M.A.C.A No.2430 of 2012

Dated this the 5th day of March 2015

JUDGMENT

Ramachandran Nair , J.,

This appeal is filed by the appellant who was the claimant before the Motor Accidents Tribunal. The award shows that the tribunal did not investigate deep into the matter even though there is a finding that he was seriously injured. Apparent reason for suspecting the bonfides of the petitioner is the alleged inaction of the Police in conducting the investigation for a period of six months.

2. We heard learned counsel on both sides.

3. Learned counsel for the appellant submitted that the findings on the seriousness of the injuries and other aspects will only support the case of the appellant that he was seriously injured in the accident occurred on 10.3.2001 and had been in the hospital for a long time. It is submitted that the learned

Tribunal should have examined the matter on merits rather than dismissing the claim for the alleged reason that the police was not informed about the accident initially, for which he cannot be blamed. It is submitted that the petitioner/appellant had to resort to the remedy by filing a private complaint and thereafter the investigation was conducted after the court initiated steps under Section 156(3) of the Cr.P.C. It is also submitted that judgment in the criminal case was produced before the Tribunal, as Ext.A4 along with Police charge Ext.A5 and other related documents.

4. In the light of the findings of the Tribunal as regards the serious injuries sustained by the appellant, we are of the definite view that the whole case requires further examination. It is also seen that oral evidence has not been adduced by the parties. Exts.A1 to A17 and Ext.X1 have been marked in evidence. Learned counsel for the appellant sought for a remand of the matter for fresh trial so that oral and documentary evidence can also be adduced, so that the appellant will be able to satisfy the Tribunal on all aspects.

5. Learned counsel for the Insurance Company contended that the policy is only an 'act only policy' whereas the learned

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counsel for the appellant submitted that it is a comprehensive policy. We are not going into the merits of those contentions. According to us, the matter requires remand since deeper examination of all the aspects are required. Accordingly, the award is set aside. O.P.(MV) 34/2002 is restored to file and the Tribunal will proceed with the matter afresh in accordance with the law.

6. The Tribunal will be free to reconsider all the matters dehors the findings recorded in the present award and fresh opportunity for adducing evidence will also be given to the parties in respect of all the aspects.

The parties will appeal before the Tribunal on **30.3.2015**.

Sd/-

**T.R.RAMACHANDRAN NAIR
(JUDGE)**

Sd/-

**P.V.ASHA
(JUDGE)**

AL/-

True copy

P.A to Judge