

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

MACA.No. 2642 of 2012 ()

AGAINST THE AWARD IN OPMV 761/2005 of M.A.C.T., ERNAKULAM DATED
07-01-2010

APPELLANTS/CLAIMANT

GLYDIN PINHEIRO AGED 26 YEARS
S/O JOSY PINHEIRO
CHEENIKKAPARAMBIL HOUSE
PALLIPORT, VYPIN
ERNAKULAM DISTRICT

BY ADV. SRI.C.S.MANU

RESPONDENTS/RESPONDENTS

1. PRADEEP, S/O VELAYUDHAN, AGED 36 YEARS
PUNNAKAPARAMBIL HOUSE
EDAVILANGU VILLAGE, KATHIYALAM
KODUNGALLOOR, THRISSUR DISTRICT
PIN 680 664
2. MOHAMMED P.I., PYNATUPADI HOUSE
P.O.VEMBALLOOR, S.B.N.PURAM
KODUNGALLOOR, THRISSUR DISTRICT
PIN 680 662
3. ORIENTAL INSURANCE CO. LTD., NORTH NADA
KODUNGALLOOR, THRISSUR 680 664

R3 BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.2642 of 2012

Dated this the 11th day of March, 2015

JUDGMENT

Ramachandran Nair, J.

The claimant is the appellant and it is a case where the Tribunal dismissed the application for the main reason that the claimant did not adduce any documentary evidence except Ext.A1 Police chalan.

2. Learned counsel for the appellant submitted that the observation made by the Tribunal is not correct. Actually, proof affidavit was filed and more than 11 documents were made available before the Tribunal, but none of them were marked in evidence.

3. Heard Learned counsel for the insurance company also.

4. In the light of the above scenario, the matter requires a remand and accordingly we set aside the award. The Tribunal will reconsider the matter afresh after allowing opportunity to both parties to adduce evidence.

5. The accident occurred on 29.3.2002 and it is also alleged that the appellant had to undergo surgeries and remained in the hospital for 40 days.

The total claim is Rs.5 lakhs, going by the details available in paragraph 3 of the award. Therefore, being an old case, every effort will be taken to dispose of the matter expeditiously and we direct the Tribunal to dispose of the matter finally, within a period of four months after appearance of parties.

The parties will appear before the Tribunal on 9.4.2015. The Registry will communicate this judgment to the Tribunal urgently.

The appeal is disposed of as above. The parties will bear their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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