

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

MACA.No. 875 of 2007 ()

AGAINST THE AWARD IN OPMV 175/2001 of PRINCIPAL
M.A.C.T.,KOZHIKODE DATED 07-10-2006

APPELLANT/PETITIONER IN OP(MV) : :

C.K.RAVEENDRAN, S/O.VELAYUDHANKUTTY NAIR
AGED 46 YEARS, KIZHAKUVEETIL HOUSE, FEROKE POST
KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS/RESPONDENTS IN OP(MV) : :

1. SURESH BABU.K., S/O.SEKHARAN,
RESIDING AT KARAYIPARAMBA HOUSE, NALLUR, FEROKE POST
KOZHIKODE.

2. THE NEW INDIA ASSURANCE COMPANY LTD.,
BRANCH OFFICE:POOTHERY BUILDING, FEROKE, KOZHIKODE.

R2 BY ADV. SRI.RENI ANTO KANDAMKULATHY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 30-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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

M.A.C.A.No.875 OF 2007

Dated this the 30th day of January, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by the claimant aggrieved by the rejection of the application claiming compensation. The appellant claimed a total compensation of ₹2 lakhs. On finding that the accident occurred due to the negligence of the appellant, the Tribunal rejected the application itself. According to the appellant, he was walking along Kadalundi road keeping the side. When he reached near Nellorampalam, an autorickshaw owned by the first respondent and insured with the 2nd respondent came from back side in an exorbitant speed and dashed against him. He was taken to the Medical College Hospital, Kozhikode and treated there.

2. We have gone through the award passed by the Tribunal. Certain aspects have been highlighted to show that it is not clear as to the various aspects pleaded by the applicant. Finally it is noted that the

driver is not made a party and final report has not been made available before the Tribunal.

3. The learned counsel for the appellant made available for perusal Final Report No.1233/2000, where one M.Prakasan is shown as the driver against whom the offences have been charged. The offence charged under Section 279 and 388 IPC read with Section 224 and 177 of the Motor Vehicles Act.

4. The learned counsel for the appellant pleaded for an opportunity for adducing evidence before the Tribunal after impleading the driver also in the party array.

5. We heard the learned counsel for the Insurance Company also.

We are of the view that an opportunity can be granted to the appellant to implead necessary parties and to adduce evidence in the matter and to produce documents including the final report. Accordingly we set aside the judgment and remand the matter for fresh consideration by the Motor Accidents Claims Tribunal.

T.R.RAMACHANDRAN NAIR, JUDGE

sv.

P.V.ASHA, JUDGE