

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

MACA.No. 403 of 2009 ()

AGAINST THE AWARD IN OPMV 2951/2003 of M.A.C.T.,
KOZHIKODE DATED 27-03-2008
APPELLANT(S)/PETITIONER IN OPMV::

K.T.AMMEDKOYA, UMMINITHAZHEKUNI HOUSE,
KEEZHOTHOTTUKADAVU, P.O.NADUVANNUR, KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENT(S)/RESPONDENTS IN OPMV::

1. RAJESH, S/O.RAVEENDRAN,
NELLIYOTTUKANDIKUNI HOUSE, P.O.KAVIL, VIA NADUVANNUR
KOZHIKODE.

2. SHAJU.K.P., S/O.USMAN, LAKSHAM VEEDU
NO.2, P.O.KARAD FEROKE COLLEGE, KOZHIKODE.

3. THE NEW INDIA ASSURANCE CO. LTD.,
DIVISIONAL OFFICE, SILVERPLAZA BUILDING
INDIRA GANDHI ROAD, KOZHIKODE.

R3 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**T.R. RAMACHANDRAN NAIR &
ANIL K. NARENDRA, JJ.**

M.A.C.A.No.403 of 2009

Dated this the 7th day of April, 2015

JUDGMENT

Ramachandran Nair, J.

The claimant before the Tribunal is the appellant herein. This is a case where the Tribunal disbelieved the version of the appellant as regards the injury sustained and therefore the claim for compensation was rejected.

2. Learned counsel for the appellant submitted that it is a genuine case that the appellant had sustained injuries and it is submitted that if a fresh opportunity is granted, the appellant can produce the treatment certificate and other records. Already the appellant had marked in evidence Exts.A1 to A3 and the respondents have marked Ext.B1. We find that no oral evidence was adduced by the appellant in support of the claim that he had sustained injuries in the accident.

3. The case of the appellant is that he met with an accident on 6.9.2003 at 10.30 a.m. According to him, he was a pillion rider in the motor cycle bearing Reg. No.KL-18-5282 and he was thrown out of the vehicle due to the rash and negligent driving of the rider of the vehicle, viz. the first respondent. The Tribunal did not accept the pleas for want of sufficient and convincing evidence.

Since this is a case of rejection of the claim application, we are of the view that the appellant can be granted one more opportunity to adduce evidence in the matter. Therefore, we set aside the award and remand the matter back for fresh consideration by the Tribunal on merits and both sides will be allowed to adduce fresh evidence also.

The appeal is allowed as above. The parties shall suffer their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(ANIL K. NARENDRA, JUDGE.)

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