

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 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

MACA.No. 193 of 2010 ()

AGAINST THE AWARD IN OPMV 125/2005 of M.A.C.T., KOLLAM DATED
16-09-2009

APPELLANT/PETITIONER:

R.RATHEESH, S/O N.RAJAN
RENJINI MANDIRAM, HOUSE NO.25, ISWARIYA NAGAR
KALLUMTHAZHAM P.O., KILIKOLLOOR VILLAGE, KOLLAM.

BY ADVS.SRI.V.E.ABDUL GAFOOR
SRI.A.MOHAMMED SAVAD
SRI.R.NIKHIL

RESPONDENTS/RESPONDENTS:

1. S.VINOD KUMAR
S/O.SADANANDAN, VINOD BHAVAN, PUNNAPRA P.O.
ALAPPUZHA.

2. NISAM, S/O.ABDU,
THAIPARAMBIL, MUNICIPAL WARD, ALAPPUZHA. (DELETED)

3. THE BRANCH MANAGER,
UNITED INDIA INSURANCE CO. LTD., BRANCH OFFICE
NORTH PARAVOOR.

4. MRS.KULSAN BEEVI SULEKHA,
AJI MANZIL, PARAVOOR, ALAPPUZHA.

* RESPONDENT NO.2 IS DELETED FROM THE PARTY ARRAY AS PER ORDER
DATED 29.1.2014 IN I.A.NO.234/2014

R3 BY ADV. SRI.M.A.GEORGE
R4 BY ADV. SMT.C.C.JANCY
R1 BY ADV. SRI.R.SURAJ KUMAR
R1 BY ADV. SRI.A.NIZAM

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.193 OF 2010

Dated this the 19th day of March, 2015

JUDGMENT

Asha, J.

The appellant met with an accident on 14.07.2003 while he was travelling in a maruthi car which was hit by a mini bus which came in the opposite direction. On account of the accident, the appellant's right kidney and pancreas were extensively damaged.

2. The claim petition was filed before the Tribunal seeking compensation to the tune of ₹12 lakhs. The Tribunal awarded a sum of ₹57,100/-.

3. This appeal is filed seeking enhancement of compensation. At the same time it is pointed out that the disability certificate issued by the Medical Board certified the disability of the appellant as 0% despite removal of one of his kidneys. The learned counsel for the appellant points out that the assessment of the Medical Board cannot be correct. It is also pointed out that certain other medical boards are assessing disability in cases of nephrectomy as 25% and above and this Court has also considered

similar cases in the appeals preferred by the Insurance Company against the disability found as well as the compensation awarded towards loss of kidney in the motor vehicle accidents.

4. The appellant was aged only 21 years old at the time of the accident and he was a cashew broker. It is found that he has lost one kidney on account of the accident.

5. The learned counsel for the appellant submitted that he wants to adduce further evidence in the matter for assessment of disability. In view of fact that different medical boards are assessing different percentages of disability in the matter of persons who lost kidney in motor vehicle accidents, we are of the view that the appellant should be given an opportunity to adduce further evidence in the matter.

Therefore we set aside the award passed by the Tribunal. The matter is remanded to the Tribunal giving opportunity to both sides to adduce further evidence. All questions are left open for reconsideration by the Tribunal. The parties shall appear before the Tribunal on 20/04/2015.

T.R.RAMACHANDRAN NAIR, JUDGE

sv.

P.VASHA, JUDGE