

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

MACA.No. 1465 of 2009 ()

AGAINST THE AWARD IN OPMV 2355/2004 of M.A.C.T.,KOZHIKODE DATED
05-09-2008

APPELLANT/PETITIONER:

P.T.SUNILKUMAR, S/O KARUNAN, AGED 37 YEARS
POYIKKAL THAZHATH HOUSE, P.O.EDAKKAD, KUNDUPARAMBU
KOZHIKODE.

BY ADV. SMT.BINDU GEORGE

RESPONDENTS/RESPONDENTS:

1. C.PRAVEENKUMAR,S/O GOPINATHAN NAIR
NANDANAM HOUSE, P.O.ELATHOOR, PAVANGAD
KOZHIKODE.

2. UNITED INDIA INSURANCE CO.LTD.,
DIVISIONAL OFFICE NO.2, P.B.NO.192, SEEMA TOWER
MAVOOR ROAD, KOZHIKODE.

R2 BY ADV. SRI.RAJESH THOMAS

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 18-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**T.R.RAMACHANDRAN NAIR &
K.P.JYOTHINDRANATH, JJ.**

M.A.C.A.No.1465 OF 2009

Dated this the 18th day of June, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is from the judgment in O.P.(MV)No.2355/2004 on the file of the Motor Accidents Claims Tribunal, Kozhikode.

2. Heard the learned counsel on both sides.

3. It is brought to our notice that the award itself was set aside and the application was remanded back for fresh consideration by judgment in M.A.C.A.No.946/2009. Therein the appellant was the first respondent herein.

4. We have gone through the judgment. Therein after setting aside the award, the matter was remanded back to the Tribunal with the permission to the owner, claimant and the Insurance Company to produce documentary as well as oral evidence in support of their respective contentions and to dispose of the matter in accordance with law.

5. In the light of the request made by the learned counsel for the appellant to verify from the Tribunal whether revised award has been passed

or not, we called for details from the MACT, Kozhikode and it is informed that a fresh award was passed on 22.04.2010 in O.P.(MV)No2355/2004. Going by the said award, the claimant is allowed to recover ₹ 27,460/- with interest @ 7% per annum from 07.12.2004.

6. Herein as far as the first respondent is concerned, notice has been returned with the endorsement 'not known'. Therefore, the appeal fails on the ground that the award has already been set aside in M.A.C.A.No.946/2009 filed by the first respondent. The appellant is free to challenge the fresh award, if he is so advised.

According to the learned counsel for the appellant only because of the pendency of this appeal and as the appellant was unaware of the fresh award passed, as of now, an appeal has not been filed against the revised award. We express no opinion on the same as well as on the merits. It is upto the appellant to file appropriate application explaining all these matters.

Accordingly, the appeal is disposed of.

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH, JUDGE

SV.