

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

MACA.No. 1227 of 2010 ()

AGAINST THE AWARD IN OPMV 879/2003 of M.A.C.T., THALASSERY DATED 26-09-2009

APPELLANT(S)/PETITIONER:

E.P.MAMMU

AGED 71 YEARS, ELAMBILAT PUTHIYAPURAYIL, HOUSE
P.O.CHERUPAZHASSI, KANNUR DISTRICT.

BY ADV. SRI.P.U.SHAILAJAN

RESPONDENT(S):RESPONDENTS

1. A.V.ABOOBACKER & OTHERS

AGED 36 YEARS, S/O.MUHAMMED KUTTY, MELEDATH HOUSE
P.O.KUTTIATTUR, VIA-MAYYIL, KANNUR DISTRICT.

2. SAYED MUSTHAFA, AGED 44 YEARS,

S/O.MUSTHAFA HAJI, MYSOOR VILLA, S.V.COLONY
KOZHIKODE DISTRICT.

3. NATIONAL INSURANCE CO.LTD.,

DIVISIONAL OFFICE, P.B.NO.40, BANK ROAD
KANNUR.

R3 BY ADV. SRI.PMM.NAJEEB KHAN

R2 BY ADV. SRI.P.V.KUNHIKRISHNAN

R BY SRI.M.A.GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
22-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.1227 of 2010

Dated this the 22nd day of May, 2015

JUDGMENT

Jyothindranath, J.

This appeal is filed against the award in O.P.(MV) No.879/2003 on the file of the Motor Accidents Claims Tribunal, Thalassery. The case of the appellant herein is that he sustained grievous injuries in a motor vehicle accident occurred on 11.8.2002 at about 2.3- p.m. It is his case that the first respondent herein drove his scooter in a rash and negligent manner and came from the left side of the appellant herein and hit him, as a result of which he sustained grievous injuries including head injury.

2. The appellant was treated in A.K.G. Hospital, Kannur and his case is that he sustained subdural haematoma and hyponatremia. He was treated as inpatient for a period of 21 days. The Tribunal, after considering the evidence before him, awarded a total amount of

Rs.10,100/-.

3. When the appeal came up for hearing, learned counsel appearing for the appellant submitted before us that the medical bills were available, but not produced before the Tribunal due to the poor health of the appellant who is a senior citizen. Learned counsel appearing for the second respondent submitted that the Tribunal awarded amount on the presumption that there is no policy.

4. After hearing learned counsel, it is found that it will be only just and proper to set aside the award and remand the matter to the Tribunal for a fresh disposal. The parties are at liberty to adduce evidence including oral evidence.

5. The Registry is directed to return the documents produced by the appellant herein along with I.A. No.1742/2010 to produce the same before the Tribunal. The Tribunal is directed to dispose of the matter as expeditiously as possible, especially considering the fact that the

appellant is a senior citizen.

The parties shall appear before the Tribunal on 30.6.2015.

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

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(K.P. JYOTHINDRANATH,, JUDGE.)

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