

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH**

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

MACA.No. 1233 of 2010 ()

**AGAINST THE AWARD IN OP(MV) 114/2003 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,
THALASSERY DATED 20.03.2010**

APPELLANT/PETITIONER:

**K.K.RAVEENDRAN, AGED 49 YEARS,
S/O.NARAYANAN, KOTTARADY, PADIYOTUCHAL P.O.
KANNUR DISTRICT.**

BY ADV. SRI.M.V.AMARESAN

RESPONDENTS/RESPONDENTS:

- 1. KANDOTHPURATH UNNIKRISHNAN,
S/O.MUKUNDAN, PONNAM VAYAL, PO.PADIYOTTUCHAL.**
- 2. N.K.SANTHOSH,
S/O.KUNHU MATHEW, THAROPPIIL HOUSE, KOROM NORTH
KOROM, PAYYANNUR.**
- 3. BRANCH MANAGER,
ORIENTAL INSURANCE CO.LTD, SHOPPING COMPLEX
NATIONAL HIGHWAY, TALIPARAMBA.**

**R-2 BY ADVS. SRI.ZUBAIR PULIKKOOL
SRI.P.S.BINU**

R3 BY ADV. SRI.VPK.PANICKER

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
15-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

SHG/

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

M.A.C.A.No.1233 of 2010

Dated this the 15th day of June, 2015

J U D G M E N T

Ramachandran Nair, J.

This appeal is filed against the award passed in O.P. (M.V.)No.114/2003 on the file of the Motor Accidents Claims Tribunal, Thalassery. The appellant is the claimant. He was a loading worker in a Mini Lorry bearing registration No.KL 10/B 5585. While he was travelling inside the Mini Lorry, on account of the negligence of the first respondent driver he was thrown out and this caused grievous injuries to him. He was admitted at Pariyaram Medical College Hospital and the police, based on the intimation given by the hospital registered crime No.54/2001. According to him, he continued treatment as inpatient till 10.04.2001.

2. Before the Tribunal documents were marked as Exts.A1 to A12. But no oral evidence has been adduced. The Tribunal, after referring to Ext.A2 Accident Register -

Cum - Wound Certificate was of the view that the reason for the accident that appears in Exts.A2 shows that the version given by the appellant is not correct. It is also found that the appellant even failed to depose himself before the Tribunal or to examine the eyewitnesses to prove the accident or the negligence alleged.

3. We heard the learned counsels on both sides.

4. Along with I.A.No.944/2015 copy of the Final Report filed by the police before the concerned court has been produced.

5. Learned counsel for the appellant submitted that the view taken by the Tribunal cannot be justified whereas the learned counsel for the Insurance Company submitted that evidence is scanty so as to support the case of the appellant.

6. Before going to the respective contentions, we are of the view that in a matter like this the cause of the accident itself has to be established. The appellant has to examine himself before the Tribunal and also adduce

further evidence in the matter, if required. Learned counsel for the Insurance Company made available a copy of the insurance policy before us. But it is seen that the same has not been produced before the Tribunal also. The above scenario requires remand of the matter to the Tribunal as both sides will have to adduce evidence. Therefore we set aside the award. Learned counsel for the appellant prays an opportunity to adduce both oral and documentary evidence and the learned counsel for the Insurance Company also sought for a similar opportunity. Accordingly, we set aside the award and remand back the case for fresh consideration by the Tribunal.

Parties will appear before the Motor Accidents Claims Tribunal, Thalassery on 27.07.2015.

Sd/-
T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-
K.P. JYOTHINDRANATH
JUDGE

//True copy//

P.A. TO JUDGE

shg/