

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

MACA.No. 1924 of 2014 ()

AGAINST THE AWARD IN OPMV 1124/2008 of ADDL.MACT, ALAPPUZHA

APPELLANT(S) /APPELLANT/PETITIONER:

SEBASTIAN, AGED 48 YEARS,
S/O.JOSEPH, AMBALAVELI HOUSE, PATTANAKKADU
PANCHAYATH, WARD NO 6, PATTANAKKADU P O
CHERTHALA

BY ADVS.SRI.DARSAN SOMANATH
SRI.T.H.SALAM

RESPONDENT(S) /RESPONDENTS:

1. G.MADANA MOHANKUMAR,
S/O.GOPALAN, AMBA HOUSE, MARKET ROAD
ATTINGAL WARD NO 8, THIRUVANANTHAPURAM-PIN-695101

2. THE MANAGER
THE NEW INDIA ASSURANCE CO LTD, 15/164,
NEAR MUNICIPAL BUS STAND, MAIN ROAD, ATTINGAL-695101

BY SRI.A.A.ZIYAD RAHMAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 03-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A.No.1924 of 2014

Dated this the 3rd day of September, 2015

JUDGMENT

The claimant in a proceedings for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the quantum of compensation granted by the Tribunal.

2. The claimant is running a printing press. The accident took place on 17.6.2008. The claimant was aged 48 years at the time of the accident. A sum of Rs.1,00,000/- was claimed in the petition by way of compensation. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.18,750/- and accordingly, an award was

passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance policy, the insurer of the vehicle was directed to satisfy the award. The claimant is aggrieved by the said award.

3. Heard the learned counsel for the appellant.

4. Ext.A5 is the wound certificate produced by the claimant before the Tribunal. In Ext.A5, the injuries sustained by the claimant are recorded as follows:

- "1. Abrasion over the left shoulder.
2. Contusion of 3 cm x 2 cm size over the left cheek and left side of chin.
3. Multiple abrasion of varying sizes over left leg, lateral side of left foot, left elbow, left palm, occipital region of scalp and left scapular region."

The impugned award indicates that the claim petition was disposed of by the Tribunal on the basis of Ext.A5 wound certificate and other documents produced by the claimant along with the claim petition.

5. According to the claimant, Ext.A5 wound certificate

is issued from a private hospital where he was taken immediately after the accident and due to the seriousness of the injuries sustained by him, he was referred to the Medical College Hospital, Kottayam on the same day itself and thereupon, he was admitted and treated in the Medical College Hospital, Kottayam till 21.6.2008. The discharge card issued to the claimant from the Medical College Hospital, Kottayam was produced before this Court in this appeal as an additional document. The additional document produced by the claimant indicates that he was admitted in the Medical College Hospital on the date of accident itself viz., on 17.6.2008 and discharged only on 21.6.2008. The claimant has also produced various documents evidencing treatment as additional documents in this appeal. It was also pointed out by the claimant that the claim petition was initially filed before the Motor Accidents Claims Tribunal, Alappuzha and later, the same was transferred to the Additional Motor Accidents Claims Tribunal, Alappuzha.

According to the claimant, the fact that the claim petition was transferred to the Additional Motor Accidents Claims Tribunal was not intimated to him by his counsel. Likewise, according to him, the claimant was also not informed about the developments of the case by his counsel. The learned counsel for the claimant pointed out that the additional documents produced before this Court could not therefore, be produced before the Tribunal.

6. When the claimant is in possession of the documents produced before this Court, there is no reason why he shall not produce the same before the Tribunal. As such, I am of the view that the claimant did not get an opportunity to produce documents before the Tribunal. Since the claimant is the victim of a motor accident and since it is found that he did not get an opportunity to produce the documents before the Tribunal, I deem it appropriate to remit this matter for fresh disposal by the Tribunal.

In the result, the appeal is allowed and the impugned award is set aside. O.P(M.V)No.1124 of 2008 is remitted to the Additional Motor Accidents Claims Tribunal, Alappuzha for fresh disposal after affording the claimant an opportunity to adduce evidence. The registry shall return to the appellant the original documents produced by him in this appeal.

P.B.SURESH KUMAR, JUDGE.

smm