

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 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

MACA.No. 1699 of 2009 ()

AGAINST THE AWARD IN OPMV 1642/2003 of M.A.C.T.,KOZHIKODE DATED
07-04-2008

APPELLANT/PETITIONER IN OP (MV) :

M.THULASIDAS, S/O.MADHAVAN, AGED 45 YEARS
PONNATHU HOUSE, KANJIKODE POST, POOKUZH
PALAKKAD.

BY ADV. SRI.K.M.JAMALUDHEEN

RESPONDENTS/RESPONDENTS IN OP (MV) :

1. M.T.ABDUL KAREEM S/O. ABDUL HAMEED
AGED 30 YEARS, MATTATHODY, KODIYATHOOR
PANNIKODE, KOZHIKODE.

2. THE NATIONAL INSURANCE CO.LTD
BRANCH OFFICE KORAMBAYIL ARCADE PANDIKKAD ROAD
MANJERI, MALAPPURAM.

R2 BY ADV. SMT.SARAH SALVY

R1 BY ADV. SRI.K.M.FIROZ

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.1699 OF 2009

Dated this the 5th day of June, 2015

JUDGMENT

Ramachandran Nair, J.

In this case, the Tribunal took the view that the appellant had not produced the final report against respondent No.1 and no evidence was also adduced by him orally. For that reason, no amount has been granted and the application has been rejected. In fact, before the Tribunal, Ext.A2 reference card from the Medical College Hospital Calicut and Ext.A3 discharge report from the Government Hospital, Trichy have also been produced. Ext.X1 is the case record.

2. The Tribunal has also observed in the course of the discussion that the appellant required prolonged treatment and he is entitled to compensation, if he proves that he is the victim of the accident.

3. Heard the learned counsel on both sides.

4. The learned counsel for the appellant strenuously

contended that it is a case where he had sustained serious injuries. The appellant was treated in the Medical College Hospital, Calicut from 27.1.2003 to 7.2.2003 and thereafter he was treated in the Government Hospital, Trichy from 31.5.2003 to 8.6.2003. The total claim of compensation is ₹2 lakhs. The Policy has been admitted by the Insurance Company also. It is also the contention that even though before the Tribunal, the appellant had filed petition for referring him to the Medical Board for assessing his permanent disability, the Tribunal did not allow the same. Ext.X1 is the case record forwarded from the Government Hospital, Trichy.

5. The fact remains that the final report in the criminal case could not be produced by the appellant. The learned counsel therefore submitted that the appellant may be granted a fresh opportunity to adduce evidence regarding negligence. If the application for referring the appellant for examination by the Medical Board is pressed by the appellant, the same will be allowed by the Tribunal and he will be subjected to examination by the Medical Board also for assessing the disability.

We accordingly set aside the award and remand back the matter for consideration by the Tribunal afresh. Since it is a case of the year 2003, expeditious steps will be taken to dispose of the matter.

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH,JUDGE

SV.