

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

MACA.No. 1934 of 2009 ()

AGAINST THE AWARD IN OPMV 3200/2002 of M.A.C.T.,KOZHIKODE
DATED 23-04-2009

APPELLANT/PETITIONER:

NOUSHADALI,
AGED 26 YEARS,
S/O.SAIDALAVI KOYA,
SHAHANA MANZIL HOUSE, POOVATHARA
EDAKKAD, RAMANATTUKARA POST, KOZHIKODE.

BY ADV. SMT.BINDU GEORGE

RESPONDENT (S) /RESPONDENTS:

1. A.V.MUHAMMED SHAJITH
S/O.HASSAN KUTTY,
KATTILTHODI HOUSE, CHELAMBRA.

2. M/S.ORIENTAL INSURANCE CO.LTD.,
JASEELA COMPLEX, MANJERI, MALAPPURAM.

R1 BY ADV. SRI.VPK.PANICKER

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

T.R.RAMACHANDRAN NAIR & P.V ASHA, JJ.

M.A.C.A No.1934 of 2009

Dated this the 17th day of March, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by the claimant aggrieved by the award passed by the Motor Accident Claims Tribunal, Kozhikode in O.P (MV) No.3200 of 2002.

2. Heard the learned counsel for the appellant and the learned counsel for the Insurance Company. It is submitted by the learned counsel for the appellant that the finding by the Tribunal with regard to the negligence is not correct. It is submitted that the Tribunal went wrong in not entering a clear finding on the negligence of the driver of the offending vehicle. The learned counsel for the Insurance Company submitted that the Tribunal was of the view that the driver of the offending vehicle has not been impleaded and the charge was not produced before the Tribunal also. But it appears that the charge has been produced as Ext.A7 even though the driver is not included in the party array. We also find from paragraph 7 that the Tribunal has made certain observations on the merits of

the case, but in the absence of the driver of the offending vehicle.

3. Therefore, the matter will have to go back for enabling the applicant to implead necessary parties.

4. The appeal is filed aggrieved by the quantum of compensation also. We leave all the questions with regard to the compensation fixed open and that can be considered by the Tribunal.

Accordingly the award is set aside and the matter is remanded back for consideration afresh before the Tribunal. Both sides are given fresh opportunity to produce documents and to examine witnesses also.

The parties will appear before the Tribunal on 20.04.2015.

Sd/-

T.R.RAMACHANDRAN NAIR
Judge

Sd/-

P.VASHA
Judge

rtr/

/true copy/

P.S to Judge