

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. 2669 of 2008 ()

**AGAINST THE AWARD IN OP(MV) 1757/2004 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,
THALASSERY DATED 14-09-2007**

APPELLANT/PETITIONER:

**PADINHAREKANDIYIL MAHESH, S/O.CHATHU,
PADINHAREKANDIYIL HOUSE, IRINGANNUR AMSOM DESOM
IRINGANNUR.P.O, THUNERI VIA, KOZHIKODE DISTRICT.**

BY ADV. SRI.CIBI THOMAS

RESPONDENTS/RESPONDENTS:

- 1. K.P.USMAN, S/O.MAJEED, KUVERI PAIKAT
SAJIRA MANZIL, MOTEMMAL, MADATHUM BHAGAM
PARAKKETTU, VADAKKUMBAD, THALASSERY.**
- 2. SMT.M.PATHEETTY, W/O.C.K.MOVIDU,
RAHIYANATH MANZIL, VADAKKUMBAD, THALASSERY.**
- 3. UNITED INDIA INSURANCE CO.LTD,
DIVISIONAL OFFICE, KANNUR.**

R2 BY ADV. SRI.NAVEEN.T

R3 BY ADV. SMT.P.K.SANTHAMMA

**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.

I.A.No.1669 of 2011

&

M.A.C.A.2669 of 2008

Dated this the 15th day of June, 2015

J U D G M E N T

K.P. Jyothindranath, J.

In this appeal, the claimant challenges the quantum awarded by the Tribunal. It is the submission of the learned counsel for the appellant that the appellant is suffering from hemiplegia. Even though the accident occurred on 30.05.2002, the claimant is continuing his treatment.

2. The appellant produced discharge summary issued by the Ganga Medical Centre & Hospital (P) Ltd, Coimbatore, which shows that he was admitted on 12.1.2011 and discharged on 25.01.2011. Learned counsel for the appellant also produced medical bills amounting to Rs.1,57,094/-. It is also the submission that even though the appellant was employed abroad his income was only taken as Rs.2,000/- per month. It is also the submission that even though the disability certificate issued by a Medical Board was produced before the Tribunal, the disability shown therein was not considered by the Tribunal. It is the further

submission that originally the total compensation claimed was Rs.5 lakhs. An application filed to enhance the same as Rs.12 lakhs.

3. Thus I.A.No.1669/2011 filed before this Court for enhancing the compensation to Rs.12 lakhs is hereby allowed.

4. We heard the learned counsel appearing for the appellant as well as the Insurance Company.

5. It is a case where the appellant wants to accept new evidence in respect of medical expenses as well as further treatment undergone by him. The original medical bills as well as evidence regarding his employment and income are also wanted to be proved.

6. After considering all these aspects including the medical bills produced before this Court, we feel that it will be only just and proper to remand the matter to adduce further oral and documentary evidence in respect of his employment abroad, medical expenses incurred after the filing of the petition as well as the disability factor. Under

such circumstances, the impugned order is hereby set aside and remand back for fresh consideration by the Tribunal. Surely, both the parties are at liberty to adduce oral and documentary evidence.

7. On receiving the files by the Tribunal, the appellant shall take steps to amend the petition there and the balance court fee shall also be paid. It is made clear that the Tribunal will be at its discretion to grant exception for payment of balance court fee.

The parties shall appear before the Motor Accidents Claims Tribunal, Thalassery on 27.07.2015.

The registry is directed to send back the file.

The original documents produced before this Court can be taken back by the appellant to produce the same before the Tribunal.

Sd/-
T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-
K.P. JYOTHINDRANATH
JUDGE

//True copy//
P.A. TO JUDGE

shg/