

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE PIUS C.KURIAKOSE
&
THE HON'BLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 30TH DAY OF MARCH 2012/10TH CHAITHRA 1934

MACA.No. 932 of 2007 (A)

OPMV.830/1999 of M.A.C.T.,KOZHIKODE

APPELLANT/PETITIONER:

M.B.UNNIMON, S/O M.S.BALAN,
AGED 34 YEARS, RESIDING AT, MUNDANTHARA HOUSE
3/1772, NADAKKAVU POST, KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENT(S)/RESPONDENTS:

-
1. A.V.PURUSHOTHAMAN, S/O GOVINDAN NAIR,
AGED 47 YEARS, RESIDING AT KARADAN HOUSE
KAVVAPURAM POST, KUNHIMANALGAM AMSOM DESOM, KANNUR.
 2. THE UNITED INDIA INSURANCE COMPANY
LIMITED, BRANCH OFFICE, PAYYANNUR.

BY ADV. SRI.P.MURALEEDHARAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
30-03-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE &
A. V. RAMAKRISHNA PILLAI, JJ.

M. A. C. A No.932 of 2007

Dated this the 30th day of March, 2012

JUDGMENT

Ramakrishna Pillai, J

The appellant filed a claim petition before the Tribunal under Section 166 of the Motor Vehicles Act claiming a compensation of ₹ 1 lakh on the allegation that he sustained injuries in a road traffic accident occurred on 31/01/99. Allegedly while the appellant was riding his motorcycle, he was hit down by a Maruti Van owned by the 1st respondent and insured with the 2nd respondent Insurance Company. His case is that as a result of the accident he sustained injuries and he had undergone treatment at National Hospital, Kozhikode from 31/01/99 to 14/02/99.

2. The 1st respondent who is the owner of the car involved in the accident in his written statement contended that the accident occurred due to the negligence of the

appellant. The second respondent Insurance Company while admitting the policy had taken a contention that the accident was due to the negligence of the appellant. They further contended that the quantum of compensation claimed is excessive.

3. The learned Tribunal after considering the evidence on record came to the conclusion that the accident had occurred due to the negligence of the appellant himself. This finding was entered into by the learned Tribunal relying on Ext.A1 wherein it is stated that the accident had occurred while the appellant entered the main road from a pocket road all on a sudden without caring the vehicles going along the main road. Finding that the accident had occurred due to the negligence of the appellant, the learned Tribunal dismissed the claim petition. It is against this dismissal, this appeal has been preferred.

4. We have heard the submissions of the learned counsel for the appellant and the learned Standing Counsel

for the 2nd respondent Insurance Company.

5. When the matter was taken up for hearing, the learned counsel for the appellant submitted that as per the police charge the accident occurred due to the negligence of the driver of the car involved in the accident. It was further submitted that Ext.A1 F.I. Statement was launched by the car driver and that was the reason why the appellant was implicated. It was further submitted by the learned counsel for the appellant that the appellant could not produce the charge sheet before the Tribunal in time. A copy of the charge sheet was also made available for our perusal during the course of his argument.

6. Though we see laches and inordinate delay on the part of the appellant in producing documents before the Tribunal, we are of the view that it is only just and proper to remand the case to the Tribunal for fresh disposal.

7. As there was inordinate delay on the part of the appellant, we are also of the view that the appellant has to be penalised for the laches.

8. In the result, the appeal is allowed and the award is set aside. O.P.(MV) No.830/99 is remanded to the Motor Accidents Claims Tribunal, Kozhikode subject to the following conditions:-

a) The appellant shall pay a sum of ₹ 2,500/- to the Kerala High Court Advocate's Welfare Fund Trust within three weeks from today and shall produce receipt before the Motor Accidents Claims Tribunal.

b) The Motor Accidents Claims Tribunal shall give an opportunity to the appellant and the respondents to adduce further evidence if they chose.

c) Parties shall enter appearance before the Tribunal on 30/04/12.

d) The learned Tribunal shall complete the exercise within three months from the date of appearance of parties. The amount of compensation if any awarded under the revised award shall not carry interest from 08/09/06 (date of original award) till the date of the revised award.

Sd/-
PIUS C. KURIAKOSE
JUDGE

Sd/-
A. V. RAMAKRISHNA PILLAI
JUDGE

kns/-

//TRUE COPY//

P.A. TO JUDGE