

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

MACA.No. 171 of 2006 ()

(AGAINST THE AWARD IN OPMV 1164/2000 of M.A.C.T., MANJERI DATED
30-12-2004)

APPELLANT/PETITIONER::

E. ALAVI, S/O. KUNHALI,
ERANHIKAL HOUSE, EDAVANNA P.O., MALAPPURAM DISTRICT

BY ADV. SRI.SAJU J.VALLYARA

RESPONDENTS/RESPONDENTS::

1. P. ABOOBACKER, S/O. MOHAMMED,
POOLANCHERI HOUSE, THRIKKALANGODE P.O., HAJIYAR PADI
MALAPPURAM DISTRICT.

2. P. VIJAYAN,
PATTANMARTHODI HOUSE, VALLUVAMBRAM P.O.
MALAPPURAM DISTRICT.

3. THE ORIENTAL INSURANCE COMPANY LTD.,
JASEELA COMPLEX, NILAMBUR ROAD, MANJERI
MALAPPURAM DISTRICT.

R3 BY ADV. SRI.MATHEWS JACOB (SR.)

R3 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
15-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**P.R. RAMACHANDRA MENON
&
BABU MATHEW P. JOSEPH, JJ.**

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M.A.C.A.No.171 OF 2006
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Dated this the 15th July, 2015

J U D G M E N T

P.R. Ramachandra Menon, J:

The appellant herein was the claimant before the Tribunal in O.P.(MV)No.1164 of 2000, which was filed seeking for enhanced compensation in respect of the accident occurred on 04.05.1999 while he was travelling in a bus bearing No.KL.10C-6030 from Kozhikode to Manjeri. Because of the negligence on the part of the driver of the bus, the bus capsized causing injuries to the claimant, which was sought to be compensated as above. The Insurance Company appeared before the Tribunal and admitted coverage in respect of the vehicle though negligence of the driver was disputed. On culmination of the trial, based on the evidence available on record, the Tribunal awarded a total sum of Rs. 32483/- plus interest at the rate of 6%, from the date of petition till the date of satisfaction. This is

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sought to be enhanced in the appeal.

2. We heard the learned Counsel for the appellant as well as the learned Counsel appearing for the respondent Insurance Company. Policy stands admitted. The injuries sustained by the appellant are extracted below:

1. Fracture of clavicle
2. Fracture of both bones of fore arm .

The amounts awarded under various heads are as given below:

<i>Head</i>	<i>Amount awarded by the Tribunal (Rs.)</i>
Transport to hospital	3850
Extra nourishment and bystanders expense	2100
Medical expense	4011
Pain and suffering	10000
Loss of wages	10000
Disability ($5732 \times 12/100 \times 1/3 \times 11$)	2522
Total	32483

3. After hearing both the sides, this Court finds that the calculation worked out in respect of the disability by the Tribunal

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requires to be varied. Considering the extent of injuries suffered, hospitalization of nearly 21 days and other relevant circumstances, we grant a further amount of **Rs.15000/-** towards pain and suffering. In respect of the loss of wages , it is stated that the petitioner had to avail Half Pay Leave for nearly 7 months, but the Tribunal has awarded only Rs.10000/-. After considering the certified salary of the claimant/appellant, we grant a further sum of **Rs.10000/-** under this head as well. The disability has been certified as 12% by the Medical Board vide Ext.X1. We are aware of the fact that, even after the accident, the appellant was having permanent employment and was working in the institution without any reduction in the salary. However, the disability sustained by the appellant requires to be compensated. As such, we grant a sum of **Rs.25000/-** under this head and after giving credit to the sum of Rs.2522/- granted by the Tribunal, the balance will come to **Rs.22478/-**. It is seen that no amount has been awarded by the Tribunal towards loss of amenities . Considering the totality of the circumstances, we find it fit and proper to grant a sum of **Rs.20000/-** under this

head. The total enhanced compensation would come to **Rs.67478/-**. This shall be satisfied by the Insurance Company at the rate of **9%** per annum from the date of application till the date of payment, within one month from the date of receipt of a copy of the judgment.

**P.R. RAMACHANDRA MENON,
JUDGE.**

**BABU MATHEW P. JOSEPH,
JUDGE.**