

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

MACA.No. 311 of 2012 ()

AGAINST THE AWARD IN OP(MV) NO. 1015/2002 of MOTOR ACCIDENTS CLAIMS
TRIBUNAL, MAVELIKKARA DATED 06-09-2011

APPELLANT(S)/PETITIONER:

VINOD ISSAC
VELIYIL HOUSE, VETTCODE, KATTANAM.

BY ADVS.SRI.T.K.KOSHY
SMT.ANNIE MATHEW
SMT.V.VRISANI

RESPONDENT(S)/RESPONDENTS 1 TO 3:

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1. ROBY
REJI BHAVAN, KARIMULCKAL, CHUNAKARA-690534.
 2. ANANDAN,
CHANDU BHAVAN, ERUMAKKUZHY, NOORANAD-690504.
 3. THE BRANCH MANAGER,
UNITED INDIA INSURANCE CO.LTD, KAYAMKULAM-690502.
- R2 BY ADV.SRI.R.PADMAKUMAR
R2 BY ADV.SRI.P.PARAVIND
R3 BY SRI.JOHN JOSEPH VETTIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
21-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.HARIPRASAD, J.

M.A.C.A. No.311 of 2012

Dated this the 21st day of May, 2015

JUDGMENT

Appellant is the petitioner in O.P.(MV) No.1015 of 2002 on the file of the Motor Accidents Claims Tribunal, Mavelikkara. He sustained injuries in a motor accident. Tribunal found that the accident was due to rash and negligent driving of an autorickshaw by the first respondent.

2. Heard the learned counsel for the appellant and the learned counsel representing the insurance company.

3. According to the learned counsel for the appellant, the Tribunal awarded only a meagre amount as compensation and that too, without taking into account the major claims. The first information report itself would show that the appellant was a salesman engaged in vending candles. It is seen from the records that he had been in the hospital for a total period of 11 days on two occasions. Tribunal has not considered the admission of appellant to the hospital on the second occasion, viz., from 01.12.1999 to 08.12.1999. Learned counsel for the appellant submitted that the Tribunal further omitted to consider the fact that during the second admission, the appellant had to pay a sum of ₹4,864/- as hospitalisation charges. The Tribunal has only taken this amount as ₹486.40 ps. It is also

the grievance of the appellant that no amount was granted as compensation for loss of earnings in spite of the fact that he was in the hospital for 11 days and confined to bed for a period of one month. Likewise, no compensation was given for loss of amenities. It is seen from the award that an amount of ₹3,500/- was given as compensation for pain and suffering. The documents produced would show that the appellant had undergone some minor surgical operation and, therefore, the amount awarded as compensation for pain and suffering appears to be low. Similarly bystander's expenses was also not correctly calculated. Hence to meet the ends of justice and to provide a just and fair compensation has to be paid to the appellant, following enhancements are made in the matter of award.

The appellant shall be paid an amount of ₹3,000/- towards loss of income for a period of one month. Medical expenses awarded by the Tribunal has to be enhanced by an amount of ₹4,864/- which was omitted by the Tribunal. Bystander's expenses should have been ₹1,100/-. The Tribunal has only granted ₹200/- and, therefore, in addition to that amount, the appellant is entitled to get an additional amount of ₹900/- towards bystander's expenses. Compensation for pain and suffering awarded by the Tribunal at ₹3,500/- is low. The proper amount should have been ₹5,000/- thereby necessitating an enhancement of ₹1,500/- in that head.

The appellant shall be provided with compensation for loss of amenities to a tune of ₹2,500/-. Therefore, the appellant is entitled to get enhanced compensation of ₹12,764/- (Rupees twelve thousand seven hundred and sixtyfour only) with 9% interest from the date of petition till recovery. The insurance company shall deposit the modified award amount within a period of one month from today.

With these modifications, this appeal is disposed of.

A. HARIPRASAD, JUDGE.

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