

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

MACA.No. 893 of 2005 ()

AGAINST THE AWARD IN OPMV 423/1999 of MACT PALA DATED 10-06-2004
APPELLANT(S)/PETITIONER:

P.E.MICHAEL, S/O.ITTIYAVIRAH,
PANAMPARAYIL, NARIYANGANAM P.O., PALA.

BY ADV. SRI.BECHU KURIAN THOMAS

RESPONDENT(S):RESPONDENTS

1. SIBY GEORGE, PERUVELIL HOUSE,
MAMBALLIPARAMBU BHAGOM, THRIKKAKKARA NORTH KARA.

2. P.C.BABU, POONTHI KUNNEL HOUSE,
PAMPAKADA, MUVATTUPUZHA.

3. THE UNITED INSURANCE CO.LTD.,
REPRESENTED BY ITS BRANCH MANAGER, MUVATTUPUZHA.

R,R3 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
28-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**T.R. RAMACHANDRAN NAIR &
K.P. JYOTHINDRANATH, JJ.**

M.A.C.A.No.893 of 2005

Dated this the 28th day of May, 2015

JUDGMENT

Jyothindranath, J.

This appeal is preferred against the award dated 20.6.2004 in O.P.(MV) No.423/1999 on the file of the Motor Accidents Claims Tribunal, Pala. The case of the appellant is that while he was walking through Pala-Erattupetta road, he met with a motor vehicle accident on 2.9.1998 at about 8.30 a.m.. It is the case of the appellant that a bus hit on a telephone wire and the appellant was strangulated in the said accident and as such he sustained severe injuries to the neck area. Alleging negligence on the part of the driver, a claim petition was moved before the Tribunal.

2. It is the submission before us that on all counts the compensation awarded was inadequate. It is the submission that the appellant was treated at M.K.M.Hospital, Pravithanam and then taken to Medical College Hospital, Kottayam and the wound certificate

issued from M.K.M. hospital is marked before the Tribunal as Ext.A5. As per the said certificate, it can be seen that there was swelling injury on the left side of neck and there was also abrasion on the right side of chest and dorsum of right foot. The appellant was treated in Medical College Hospital, Kottayam as inpatient from 2.9.1998 to 10.9.1998 and again from 11.9.1998 to 19.9.1998 and again admitted on 25.9.1998 to 28.9.1998 which is proved by Exts.A8 and A6 medical certificates. He sustained laryngo tracheal injury with surgical emphysema neck. He underwent emergency tracheostomy. Ext.A7 which is marked before the Tribunal shows that he sustained 50% disability to his speech. He continued his treatment. It is the submission that the appellant is now aged about 85 years and for the last so many years he was suffering from loss of speech and his amenities were very much affected and also that a large sum was spent for medical expenses.

3. After hearing learned counsel and considering the amounts awarded under various heads, it is found that this is a case where the

compensation awarded on various counts has to be refixed.

Thus, we refix the compensation as follows:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal</i>	<i>Modified award passed by this Court</i>
Partial loss of earnings	4000	4000
Transport to hospital	1500	2500
Extra nourishment	1000	1500
Damage to clothing	250	250
Pain and suffering	15000	30000
Loss of amenities and convenience	20000	40000
Future medical expenses		15000
Cost of medicine & bystander expenses	3500	3500
Total		96750

(Rupees Ninety-six thousand seven hundred and fifty only)

The entire compensation will carry interest at 9% per annum from the date of petition and the insurance company is directed to deposit the amount of compensation, less the amount already deposited before the Tribunal, within a period of three months and the appellant is permitted to withdraw the amount.

The appeal is allowed as above. The parties will suffer their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(K.P. JYOTHINDRANATH,, JUDGE.)

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