

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

MACA.No. 544 of 2012 ()

AGAINST THE AWARD IN OPMV 1806/2007 of M.A.C.T., KOZHIKODE
DATED 14-01-2010

APPELLANT/PETITIONER:

K.RUBEENA
AGED 31 YEARS, W/O. HABEEB RAHIMAN
NUMBERI MEETHAL HOUSE, P.O. MAYANADU, KOZHIKODE - 8.

BY ADV. SRI.JACOB ABRAHAM

RESPONDENTS/RESPONDENTS:

1. K.ANWAR HUSSAIN
S/O. MOIDEEN, KALARI PURAYIL HOUSE
P.O. POOVATUPARAMBA, KOZHIKODE - 673 008.

2. MAZHOOD,
S/O. MOHAMMED, KOOLAYIL HOUSE, KOOTIPARAMBA PO- 676 505
MAITHRA, URANGATTIN, MALAPPURAM DISTRICT - 673 639.

3. THE DIVISIONAL MANAGER,
THE NEW INDIA ASSURANCE CO. LTD.
SILVER PLAZA BUILDING, MAVOOR ROAD
KOZHIKODE - 673 004.

R BY ADV. SRI. A A ZIYAD RAHMAN
R3 BY ADV. SMT.T.C.SOWMIAVATHY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

**T.R.RAMACHANDRAN NAIR, &
P.V.ASHA, JJ.**

M.A.C.A.No.544 of 2012

Dated this the 15th day of January, 2015

JUDGMENT

P.V.Asha, J.

The appellant is the injured in a motor vehicle accident which occurred on 30.3.2007 while she was knocked down from the motor cycle by a lorry. She was a pillion rider on the motor cycle bearing registration No.KL 11/G 602. From Ext.A2 wound certificate it can be seen that the injuries sustained by her are lacerated wound of parietal area, thin subdural haematoma, SDH fracture right temporal bone and hemorrhagic contusion right temporal bone. She was immediately taken to the Medical College Hospital, Kozhikkode. She was admitted on 30.3.2007 and was discharged on 10.4.2007. She was working as a Staff Nurse in Medical College Hospital, Kozhikkode on provisional basis. It is contended that she was unable to attend her duties for a period of two months and thereafter she has lost employment as she was appointed on a provisional basis. A claim petition was filed seeking compensation to the tune of ₹1,20,000/-. The Tribunal awarded a sum of ₹19,230/-.

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2. The appellant has filed this appeal seeking enhancement of compensation on the ground that the amount awarded on various heads are inadequate.

3. We heard the learned counsel appearing on either side.

4. Having regard to the nature of injuries sustained and the treatment undergone by the appellant, we find that the amount awarded under the head of pain and suffering is thoroughly inadequate. The amount awarded is only ₹8,000/-. We find it just to enhance the same to ₹30,000/-. It is pointed out that the appellant had to avail leave initially for a period of 30 days and thereafter to get it extended by another period of one month. Even though this is evident from Ext.A6, Tribunal has awarded a sum of ₹7,480/- only ie. salary for a period of one month alone. We enhance the same by granting the amount equal to her salary for two months which will come to ₹14,960/-. Similarly towards bystander's expense the Tribunal has granted a sum of ₹1,000/- only for 12 days. Having regard to the wages prevailing at the relevant time we fix the rate at ₹250/- per day. The amount comes to ₹3,000/-. Towards damages to clothing the Tribunal has awarded only a sum of ₹250/-, even though the claim was

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for ₹4,000/-. We enhance the same to ₹2,000/-. It is seen that the claimant had to undergo treatment for a period more than six months as an outpatient. The Tribunal has awarded an amount of ₹500/- for transportation. We enhance the same to ₹2,000/-. Instead of compensation towards loss of amenities, we award the sum of ₹2,000/- towards miscellaneous expenditure incurred by the appellant, on account of the accident. The award passed by the Tribunal is accordingly modified as follows:

Head of Claim	Amount awarded in rupees
Transportation to hospital	2000
Damage to clothing	2000
Loss of earning	14960
Bystander expense	3000 (150 X 12)
Pain & suffering	30000
Miscellaneous	2000
Total	53960

5. The appellant will be entitled to a total amount of ₹53,960/- as compensation. This will carry interest at the rate of 9% per annum from the date of petition. The insurance company shall deposit the

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amount less the amount already deposited before the Tribunal within a period of 3 months from the date of receipt of a copy of this judgment.

The appeal is accordingly allowed. No costs.

Sd/-
T.R.RAMACHANDRAN NAIR, JUDGE

Sd/-
P.V.ASHA, JUDGE

rkc.