

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

MACA.No. 773 of 2012 ()

AGAINST THE AWARD IN OPMV 1539/2006 of II ADDL. MACT, KOZHIKODE DATED
27-10-2010

APPELLANT(S)/PETITIONER:

SANGEETHA SARATH
W/O. DWARAKA UPPOT SARATH KUMAR (LATE)
SILVER SPRINGS ACE STRUCTURES, MANKAVU, KOZHIKODE.

BY ADV. SMT.K.V.RESHMI

RESPONDENT(S):RESPONDENTS

1. T.M.MAMU HAJI
S/O. UMMERKUTTY HAJI, THARAKULATH HOUSE
P.O. KOODATHAYI BAZAR, THAMARASSERY, KOZHIKODE-673573.

2. NATIONAL INSURANCE CO. LTD.
DIVISIONAL OFFICE, NOOR COMPLEX, NEAR ARAYEDATHUPALAM
MAVOOR ROAD, KOZHIKODE-673001.

3. P.K. MUHAMMED BASHEER
S/O. MAMU, PALAKANDY HOUSE, P.O. M.M. PARAMBA
KOZHIKODE-673573.

R2 BY ADV. SRI.MATHEWS JACOB (SR.)

R2 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.773 of 2012

Dated this the 8th day of April, 2015

JUDGMENT

Asha, J.

The injured in a motor vehicle accident, which occurred on 1.7.2005 is the appellant herein, seeking enhancement of compensation. She was travelling in a car which was hit by a tipper lorry which came in the opposite direction and sustained severe injuries. She was immediately taken to MIMS Hospital, Kozhikode.

2. The claim petition was filed seeking compensation to the tune of Rs.5 Lakhs. The Tribunal awarded a sum of Rs.22,100/- as total compensation. This appeal is filed seeking enhancement in compensation.

3. We heard learned counsel on both sides.

4. The appellant sustained fracture posterior acetabulum tip with dislocation of hip joint. She had undergone inpatient treatment for a period of 18 days. The records relating to the treatment, the disability,

if any, suffered by the appellant, etc. are not seen produced before the Tribunal. However, it is seen that the Tribunal has awarded only a sum of Rs.1,100/- alone as bystander's expenses. As it is seen that she was hospitalised for 18 days and since the accident is of the year 2005, we award a sum of Rs.3,600/- towards bystander's expenses. The Tribunal has awarded a sum of Rs.10,000/- for pain and suffering. In view of the serious nature of the injuries suffered by her, viz. fracture of posterior acetabulum causing dislocation of hip joint and having regard to the discomfort and inconvenience that would have been experienced by her on account of the injuries, we enhance the compensation for pain and suffering to Rs.15,000/-.

Therefore, the total compensation will be recomputed as follows:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal</i>	<i>Modified award passed by this Court</i>
Transport to hospital	500	500
Extra nourishment	500	500
Loss of earnings	5000	5000
Bystanders expenses	1100	3600
Treatment expenses	2000	2000
Pain and suffering	10000	15000
Loss of amenities	3000	3000
Total		29600

The enhanced amount of compensation will carry interest at the rate of 9% per annum from the date of petition till realisation and the insurance company is directed to deposit the entire amount of compensation less the amount already deposited before the Tribunal, within three months.

While condoning the delay, this Court has ordered that in case the appeal is allowed, the enhanced compensation will not carry interest during the period of 660 days, viz. the period covered by the delay. We also reiterate the same. The insurance company is directed to deposit the entire amount of compensation less the amount already deposited before the Tribunal, within three months after deducting interest for the enhanced amount of compensation for the period covered by the delay.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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