

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 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

MACA.No. 1012 of 2012 ()

IN OPMV 1082/2009 of M.A.C.T., ERNAKULAM DATED 24-11-2011

APPELLANT(S)/PETITIONER:

**SUMESH.P.V., AGED 29 YEARS
S/O.VELAYUDHAN, PADATHTHITTA HOUSE, NETTOOR P.O.
MARADU VILLAGE, KANAYANNOOR TALUK, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.MATHEWS K.PHILIP
SMT.T.MANASY**

RESPONDENT(S)/RESPONDENT :

- 1. JEENS SISIL
S/O.VINCENT, THEKKEKAROTTU HOUSE, POLACHIRA BHAGOM
CHINGAVANAM P.O., NATTAKAM VILLAGE
KOTTAYAM DISTRICT-686531.**
- 2. ELIAS MATHEW,
THARAYIL MALAKANCHIRA HOUSE, CHINGAVANAM P.O.
KOTTAYAM DISTRICT-686 531.**
- 3. THE ORIENTAL INSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE, P.B.NO.166, 3RD FLOOR
MATTETHARA BUILDING, M.C.ROAD
KOTTAYAM DISTRICT-686539.**

R3 BY ADV. SRI V P K PANICKER

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 13-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

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

M.A.C.A.No.1012 of 2012

Dated this the 13th day of August, 2015

JUDGMENT

T.R.Ramachandran Nair, J.

Aggrieved by the inadequacy of the quantum of compensation awarded by the Tribunal, the petitioner in O.P.(MV).No.1082/2009 has come up in this appeal.

2. The total compensation granted is Rs.47,334/- as against a claim of Rs.1,50,000/-.

3. The accident occurred on 11.02.2009 when the appellant was travelling as a pillion rider in a motor cycle. It was hit by a lorry and he was treated as inpatient for 7 days.

4. The injuries sustained by the appellant are the following:-

- “(i)Head injury,*
- (ii) Fracture of Zygoma left,*
- (iii) Fracture of radius,*
- (iv) Abrasion on the right cheek, right eyebrow and extremities.”*

5. Heard both sides.

6. The learned counsel for the appellant highlighted mainly one two aspects. First one is that the income that has been fixed at Rs.4,000/- by the Tribunal in spite of claim of Rs.5,000/- is low as he was working as a Supervisor in a private Automobile establishment. Secondly it is submitted that the amount that has been granted towards loss of amenities and enjoyments in life is very meagre.

7. The learned counsel for the insurance company submitted that no further enhancement is required going by the facts and circumstances of the case.

8. What we find from the award is that only Rs.15,000/- is seen awarded for pain and suffering. Since he was treated as inpatient for 7 days and it is found by the Tribunal that he would have taken 3 months rest for cure, we enhance the amount to Rs.30,000/- for pain and sufferings. As far as medical expenses are concerned, it is stated that he got reimbursement for the major portion of the amount and therefore we do not find any infirmity.

We award a further amount of Rs.2,000/- towards miscellaneous expenses. Therefore, the total compensation will be enhanced by Rs.17,000/- more.

9. Accordingly, the total compensation is fixed as Rs.64,334/- (Rupees Sixty four thousand three hundred and thirty four only), which will carry interest at the rate of 9% per annum from the date of filing the petition. The insurance company is found liable by the Tribunal. We direct the insurance company to deposit the amount less the amount already deposited within a period of three months. The appellant is permitted to withdraw the amount one deposited.

In the above findings, M.A.C.A.No.1012/2012 is allowed. Parties will bear their costs in the appeal.

Sd/-
T.R.RAMACHANDRAN NAIR,
JUDGE

Sd/-
K.P.JYOTHINDRANATH,
JUDGE

VS