IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936`

MACA.No. 1110 of 2012 ()

(AGAINST THE AWARD IN O.P.(MV)NO.456/2008 OF MACT, KOTTAYAM)

APPELLANT/PETITIONER:

1. SAJAN ABRAHAM AGED 30 YEARS
S/O. P.M.ABRAHAM, PUTHENPURAYIL HOUSE
KOOROPPADA VILLAGE, LAKATOOR P.O., KOTTAYAM.

BY ADV. SRI.JACOB E SIMON

RESPONDENTS/RESPONDENTS:

1. THE MANAGING DIRECTOR
ST.ANTONY'S MOTORS INDIA LIMITED
THANNIKKAPADY, VADAVATHOOR
KOTTAYAM 686 010

2. 2. RAJIVE
S/O. SASI, CHITTETTU HOUSE, VIJAYAPURAM VILLAGE
MANARCADU, PARAMPUZHA, KOTTAYAM
PIN-686 032.

3. THE UNITED INDIA INSURANCE COMPANY LIMITED
REPRESENTED BY DIVISIONAL OFFICE, KOTTAYAM
PIN-686 002.

R3 BY ADV. SRI.RAJESH THOMAS

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 03-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

- -

M.A.C.A.No.1110 OF 2012

- -

Dated this the 3rd day of February, 2015

JUDGMENT

Asha, J.

The appellant is the injured in a motor accident which occurred on 26.11.2006. The Tata sumo vehicle in which the appellant was travelling hit against an electric post and he sustained injuries. He was admitted in Carithas Hospital and underwent treatment as inpatient from 26.11.2006 to 2.12.2006 and thereafter as outpatient. He sustained communited fracture head and neck of humerus, abrasion right foot 3 x 2 cm. and abrasion left foot 1 x 1 cm. Open reduction and internal fixation was done at the initial stage and thereafter again underwent inpatient treatment for a period of two days from 12.5.2007 to 14.5.2007 for pin removal. As per the certificate issued from the hospital, he sustained 12% disability.

2. The appellant is a mechanic with certificate from ITI. He is working as a Mechanic. The claim petition was filed seeking

compensation to the tune of Rs.2,43,000/ claiming that he was getting a salary of Rs.6,000/- and was aged 30 at the time of the accident. The Tribunal awarded a total compensation of Rs.1,09,040/-. His income was reckoned as Rs.3,000/- per month and the disability was reckoned as 7% even though 12% was certified in Ext.A12. This appeal is filed seeking enhancement of compensation alleging that the amount awarded under various heads are thoroughly inadequate.

3. We heard the learned counsel on either side.

4. It is seen that the appellant is a qualified mechanic who claimed to have been earning Rs.6,000/- per month. But the Tribunal did not accept the same and reckoned his income as Rs.3,000/- per month. Having regard to the salary admissible to mechanics, we deem it fit to fix the income @ Rs.5,000/- per month and assess the compensation towards loss of earnings as well as under the head of permanent disability. The Tribunal has awarded a sum of Rs.6,000/- towards loss of earnings for a period of two months. Thus the appellant will be entitled to a sum of Rs.10,000/- under this head. Under the head of permanent disability, the Tribunal has awarded a

sum of Rs.42840/- only. Reckoning his income @ Rs.5000/- and disability at 12%, he will be entitled to Rs.122,400/- (5000 x 12 x 17 x 12%) under this head. Similarly, the Tribunal has awarded a sum of Rs.3,000/- towards bystander expenses for a period of two months @ Rs.1500/- per month, which is only @ Rs.50/- per day. Atleast a sum of Rs.200/- per day should have been provided for the bystander at the relevant time. Therefore we enhance the same @ Rs.200/- per day for a period of two months which will come to Rs.12,000/-. Towards pain and suffering, the Tribunal has awarded only a sum of Rs.20,000/-. Having regard to the fact that the appellant was unable to carry out any avocation for atleasst two months and might have experienced discomfort and inconvenience during this period, we deem it fit to enhance the amount to Rs.30,000/-.

5. Accordingly, the appellant will be entitled to compensation in the following manner :

Head of claim	***Amount Awarded in rupees***
Loss of earnings	10000
Transport to hospital	10700

Head of claim	***Amount Awarded in rupees***
Extra nourishment	1000
Damage to clothings	500
Medical expenses	25000
Bystanders expenses	12000
Pain and suffering	30000
Permanent disability	122400
Loss of earning power	6000
Total	217600 (Rupees two lakhs seventeen thousand six hundred only)

6. The amount will carry interest @ 9% per annum from the date of petition. The Insurance Company shall deposit the amount less the amount already deposited within a period of three months from the date of receipt of a copy of this judgment.

The appeal is accordingly disposed of.

T.R.RAMACHANDRAN NAIR, JUDGE

P.V.ASHA, JUDGE

sv.