

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

MACA.No. 1640 of 2006 ()

AGAINST THE AWARD IN OPMV 853/2000 of MACT, IRINJALAKUDA DATED 21-12-2005

APPELLANT/PETITIONER IN OP(MV)

SUDHAN
S/O. RAMAN, CHARTHAYI HOUSE, NELLAYI P.O.
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

BY ADVS.SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENT/RESPONDENTS IN OP(MV)

1. V.K.JOY
VADAKKETHALA HOUSE, KODAKARA P.O.
2. ANANDAN,S/O.SANKARAN,
PALAKKAPARAMBIL HOUSE, KARIKULAM, VARANDARAPILLY P.O.
3. THE MANAGER,
ORIENTAL INSURANCE CO. LTD., CHALAKUDY.

R3 BY ADV. SRI.P.V.JYOTHI PRASAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 30-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

kp/-

P.R. RAMACHANDRA MENON & P. BHAVADASAN, JJ.

=====

M.A.C.A.No.1640 of 2006

=====

Dated this the 30th day of November, 2015

JUDGMENT

BHAVADASAN, J.

Aggrieved by the inadequacy of compensation awarded in O.P.(MV)No.853 of 2000 dated 21.12.2005, the claimant before the Motor Accidents Claims Tribunal, Irinjalakuda has come up in appeal.

2. It is not in dispute that the appellant, aged 36 years, a toddy tapper by profession, while going on a motor cycle, met with an accident with a van driven by the second respondent, of which the first respondent is the owner and the third respondent respondent is the insurer. Appellant-petitioner suffered injuries.

3. It is not now in dispute that the accident occurred due to the negligence on the part of the second respondent and the first respondent before the Tribunal is vicariously liable. The compensation has to be paid by the indemnifier, 3rd respondent. It is not the liability that is in dispute, but the quantum of compensation awarded by the Tribunal and hence this appeal.

4. We find that the Tribunal has awarded a sum of ₹100 towards extra nourishment, a sum of ₹1002/- towards medical expenses, ₹200/- towards transport charges to hospital. We do not find any ground to interfere with those amounts.

5. However, for the loss of earnings, the Tribunal has taken three months as period during which the petitioner could not have gone for work and adopting a sum of ₹2000/- per month as monthly income, granted ₹6,000/- under the head loss of earnings for three months. We are of the view that the said amount is inadequate. At the relevant point of time the petitioner would have earned a minimum of ₹4000/- per month. Considering the avocation and accepting three months' period of loss of earnings, the amount will come to ₹12,000/-. We find it appropriate to grant an additional sum of ₹6000/- under the head loss of earnings.

6. Towards pain and suffering, the amount granted is only ₹6,000/-. Considering the nature of injuries suffered and the agony undergone the appellant-petitioner, as discernible from the available records that too is inadequate. An additional sum of ₹6,000/- is granted under that head. Towards loss of amenities,

only a sum of ₹3,000/- has been granted. We find that too is inadequate and we grant an additional sum of ₹7,000/- towards that head. Thus the total additional compensation comes to ₹19,000/-.

The appeal is disposed of, directing the Insurance Company to pay the additional sum of ₹19,000/- over and above the amount awarded by the Tribunal with 9% interest from the date of petition till realisation. The additional compensation shall be deposited within two months from the date of this judgment.

**P.R. RAMACHANDRA MENON
JUDGE**

**P. BHAVADASAN
JUDGE**

kp/-