

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 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

MACA.No. 1773 of 2005 ()

AGAINST THE AWARD IN OPMV 2617/1997 of M.A.C.T., ERNAKULAM DATED
26-11-2004

APPELLANT/CLAIMANT:

SINU ALIAS SINU GEORGE,
AGED 26 YEARS, S/O.GEORGE, PANAMPARAMBIL
NEAR MOSAIC COMPANY, CHALIKKAVATTOM, VENNALA.P.O.
COCHIN-28.

BY ADVS.SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENTS/RESPONDENTS:

1. P.GURUSWAMY,
NO.80, 1ST WEST GRAMANI GARDEN
CHENNAI 21 AT NOW AT AIM TRANSPORT, 2
ERABALUCHETTY STREET, CHENNAI-1.(DELETED)

2. D.SRINIVASAN, HOUSE NO.XI,
M.G.R.MAVATTOM DISTRICT, TAMIL NADU STATE.(DELETED)

3. THE ORIENTAL INSURANCE CO. LTD.,
M.G.ROAD, COCHIN-35.

* RESPONDENTS 1 AND 2 ARE DELETED FROM THE PARTY ARRAY AT
THE RISK OF THE APPELLANT VIDE ORDER DATED 15.1.2014 IN
I.A.NO.3331/2013

R3 BY ADV. SRI.MATHEWS JACOB (SR.)
R3 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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

M.A.C.A.No.1773 OF 2005

Dated this the 21st day of January, 2015

JUDGMENT

Asha, J.

The appellant is the injured in a motor vehicle accident. The accident occurred when the auto rickshaw in which he was travelling was hit by a trailer lorry on 19/4/1997. He sustained the following injuries :

- “1. Lacerated wound left shin
2. Lacerated wound near left axilla
3. Lacerated wound lateral surface of right leg below knee 8 cm. X 3 cm. Muscle and fascia found.
4. Fracture shaft of right tibia
5. Abrasion of right palm”

2. It was claimed that the appellant was engaged in the work of upholstery. He was aged 18 and was earning a sum of ₹2,500/- as the monthly income. The claim petition was filed seeking compensation of ₹2 lakhs. Reckoning his income as ₹1,250/- per

month, the Tribunal awarded a sum of ₹56,000/-. This appeal is filed seeking enhancement of compensation.

3. We heard the learned counsel appearing on either side. The learned counsel for the Insurance Company opposed the enhancement by submitting that the compensation awarded under all the heads are fair and reasonable.

4. It is pointed out that the appellant had been under inpatient treatment for a period of 45 days. The Tribunal has awarded a sum of ₹2,000/- towards attendant expenses. We find that the amount awarded under this head is inadequate. Reckoning a sum of ₹150/- per day towards bystander expenses, we enhance the compensation under this head to ₹6750/- (45 x 150). The Tribunal has reckoned a sum of ₹1250/- as the monthly income. Considering the wage structure at the relevant time, we fix the monthly income of the appellant @ ₹1,750/-. The Tribunal has awarded a sum of ₹5,000/- towards loss of earnings for a period of four months. Therefore the compensation under this head will come to ₹7,000/- (1750 x 4). The learned counsel for the appellant pointed out that at the time of adducing evidence and passing

the award of the Tribunal, internal fixation done during the period of treatment was not removed and therefore it was necessary to undergo further treatment. Therefore, we award a sum of ₹5,000/- more towards future treatment. No other enhancement is found necessary in this case.

5. Accordingly, we modify the award granting enhancement of ₹ 11,750/-. Thus the total compensation will come to ₹67750/- (56000 + 11750). 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 before the Tribunal 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.

