

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 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

MACA.No. 1348 of 2012 ()

**AGAINST THE AWARD IN OP(MV) 40/2008 OF ADDITIONAL MOTOR ACCIDENTS CLAIMS
TRIBUNAL, ERNAKULAM DATED 14-03-2012
APPELLANT/PETITIONER:**

**PRATHEESH T.R
S/O. RAVI, THATTASSERY HOUSE, MUTTINAKOM
CHERANALLOOR, COCHIN -28.**

**BY ADVS.SRI.K.JANARDHANAN`
SRI.K.J.MANU RAJ**

RESPONDENTS/RESPONDENTS:

- * 1. JAISON E.A
EARAYIL HOUSE, MUTTINAKOM, VARAPPUZHA.P.O
ERNAKULAM DISTRICT - 683 517. [DELETED]**
- *2. ANSON ANTONY
S/O. ANTHAPPAN, KANJOOKARAN VEETIL, THEVARKADU BHAGOM
VARAPPUZHA KARA, ERNAKULAM - 683 517. [DELETED]**
- 3. THE UNITED INDIA INSURANCE CO. LIMITED,
MUNICIPAL BUILDING, MAIN ROAD, NORTH PARUR - 682 009.**

**R3 BY ADV. SRI.K.SANDESH RAJA
R BY SRI.JOHN JOSEPH VETTIKAD**

***[R1 & R2 ARE DELETED FROM THE PARTY ARRAY AT THE RISK OF THE
PETITIONER VIDE ORDER DATED 20.2.2013 IN I.A.389/2013 IN MACA 1348/2012]**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
20-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

SHG/

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

M.A.C.A.No.1348 of 2012

Dated this the 20th day of August, 2015

J U D G M E N T

Ramachandran Nair, J.

The claimant has come up in appeal. He was injured in an accident which occurred on 27.9.2007 at about 7.30 a.m. while he was travelling as a pillion rider in a motorcycle and due to the careless driving of the first respondent he fell down on the road and sustained injuries. He was taken to the Lourdes Hospital, Ernakulam and was treated there. The injuries noted in Ext.A7 are swelling right hand, swelling right ankle and abrasion on left knee. On investigation it was found that he had sustained fracture both bones right forearm and contusion on right foot. He was in the hospital for a period of 13 days as evident from Ext.A8 discharge certificate.

2. The Tribunal has granted a total compensation of Rs.39,205/-.

3. Heard both sides.

4. Learned counsel for the claimant/appellant sought for an enhancement of amount towards pain and suffering and loss of earnings. It is submitted that the fracture to both bones right forearm kept him indoors at least for a period of three months. It is also pointed out no amount has been granted towards transportation expenses, extra nourishment and damage to clothing.

5. We heard learned counsel for the Insurance Company, who submitted that there is no evidence of any disability and discomfort and according to him reasonable compensation has been granted.

6. He was aged 23 at the time of the accident and the monthly income fixed at Rs.3,000/-. He was a construction worker and we fix his monthly income at Rs.4,000/-. We award amount at the rate of Rs.1,000/- each for transportation, extra nourishment and damage to clothing. Accordingly, we re-fix the compensation in the following manner:

Head of claim	Amount re-fixed Rs.
Transportation	1000
Extra nourishment	1000
Damage to clothing	1000
Pain and suffering	30000
Loss of earning (3 months)	4000x3 12000
Treatment expenses	15705
Attendant expenses	2500
Loss of amenities	6000
Total	69205
	Rounded off to Rs.70,000/- (Rupees seventy thousand only)

7. The enhanced compensation will carry interest at the rate of 9% per annum from the date of petition till realisation.

8. There will be a direction to the Insurance Company to deposit the amount of compensation with interest, less the amount already deposited, before the Tribunal within a period of three months. On such deposit being made, the appellant will be entitled for the release of the amount.

The appeal is accordingly allowed. There will be no order as to costs in the appeal.

Sd/-

T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-

K.P. JYOTHINDRANATH
JUDGE

shg/