

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

MACA.No. 1542 of 2012 ()

AGAINST THE AWARD IN OPMV 2912/2002 of SPL.COURT FOR EC ACT CASES
&MACT,TSR DATED 31-12-2008

APPELLANT/PETITIONER:

KOCHANNAN

W/O RAPPAI, KUNDUKULAM HOUSE, ELTHURUTHU P.O
THRISSUR DISTRICT

BY ADVS.SRI.C.A.CHACKO
SMT.C.M.CHARISMA

RESPONDENTS/RESPONDENTS:

1. NOBINS.T.D
THATTIL HOUSE, OLRICKARA. P.O
THRISSUR DISTRICT 680001

2. LEYON T.D,
THATTIL HOUSE, PUTHENPEEDIKA, KISHAKKUMCHERY P.O
PERINGOTTUKARA, THRISSUR DISTRICT 680565

3. UNITED INDIA INSURANCE CO. LTD,
BRANCH OFFICE, THRISSUR 680001

R3 BY ADV. SRI.PMM.NAJEEB KHAN
R BY SRI.JOHN JOSEPH VETIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 13-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

AL/-

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

M.A.C.A. No.1542 of 2012

Dated this the 13th day of March 2015

JUDGMENT

Asha, J.,

The appellant sustained serious injuries in a motor accident which occurred on 3.6.2002. She was a pillion rider on a motor cycle. When the rider applied sudden brake she fell down and sustained serious injuries. Immediately she was admitted to West Fort Hospital, Thrissur. She underwent treatment as inpatient for a period of 20 days.

2. The claim petition was filed seeking compensation to the tune of Rs.3,50,000/-. The Tribunal awarded a sum of Rs. 1,24,300/-. This appeal is filed seeking enhancement of compensation.

3. We heard the learned counsel on both sides.

4. The age of the appellant was 55 at the time of the accident. The injury sustained by her are as follows:-

" left frontal contusion, right temporal contusion, fracture right temporal traumatic SAH, brain bulging."

5. The disability was assessed as 15%. The Tribunal

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awarded a sum of Rs. 21600/- towards compensation for disability. We find that though, the appellant is a house wife with no fixed income, her service as a housewife, which is beyond valuation remained suspended till completion of her treatment and convalescence. We take her notional income as Rs.2,500/- per month. As she was aged 55, the proper multiplier is 11. Therefore the total compensation under the head of disability will come to Rs. 49,500/- ($\text{Rs.}2500 \times 12 \times 11 \times 15 / 100$). The Tribunal awarded a sum of Rs.2000/- towards bystander's expenses. We enhance the same to Rs. 3000/- reckoning at the rate of Rs.150/- per day. Under the head pain and suffering, the Tribunal has awarded a sum of Rs. 12,000/- and Rs.8,000/- towards loss of amenities. Having regard to the nature of injuries as explained and the discomfort and inconvenience she suffered and the prolonged procedure of treatment, we enhance the same to Rs.35,000/-. On account of the disability incurred, she will be unable to enjoy the normal amenities of life as she enjoyed before the accident. Therefore, we enhance the same to Rs. 35,000/-. Accordingly, we modify the award as follows:

Sl. No.	Heads of claim	Amt.awarded	Amt.modified
1	Loss of earning	Nil	
2	Expense for transportation	1000	1000
3	Expense for extra nourishment	2000	2000
4	Damages to clothing	500	500
5	Expense for treatment	77200	77200
6	Expense for bystander	2000	3000
7	Compensation for pain and suffering	12000	35000
8	Compensation for loss of amenities	8000	35000
9	Compensation for disability	21600	49500
	Total	124300	203200

6. Thus the appellant will be entitled to get a total compensation of Rs.2,03200/- (Rupees Two lakh Three Thousand Two hundred only). The enhanced compensation will carry interest at the rate of 9% p.a from the date of petition.

7. The Tribunal found that the Insurance Company is not liable to indemnify the owner of the vehicle, on the ground that the policy did not cover pillion rider. The learned Counsel for the Insurance Company fairly admitted that the policy was a package policy which covers the pillion rider also. Therefore, the finding regarding liability is vacated and we declare that the Insurance Company is liable to indemnify the first respondent/owner of the

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vehicle.

8. Therefore, the Insurance Company is directed to deposit the amount covered by the modified award within a period of three months.

Accordingly, the appeal is allowed and the parties will suffer their respective costs in the appeal.

Sd/-

**T.R.RAMACHANDRAN NAIR
(JUDGE)**

Sd/-

**P.V.ASHA
(JUDGE)**

AL/-

True copy

P.A to Judge