

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

MACA.No. 1547 of 2012 ()

AGAINST THE AWARD IN OPMV 1220/2006 of M.A.C.T., THALASSERY DATED
31-10-2011

APPELLANT/PETITIONER:

KOLIYADAN VEETIL KRISHNAN, AGED 72 YEARS
S/O.KRISHNAN (LATE)
RESIDING AT CHERUTHAZHAM AMSOM AND DESOM
P.O.EZHILODE, KANNUR DISTRICT.

BY ADV. SRI.M.V.AMARESAN

RESPONDENT/RESPONDENT NO.3:

UNITED INDIA INSURANCE COMPANY LTD.
KIZHAKKEDATHU BUILDING, PATHANAMTHITTA, PIN 689501.

R1 BY ADV. SMT.R.REMA

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 05-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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

M.A.C.A.No.1547 OF 2012

Dated this the 5th day of February, 2015

JUDGMENT

Ramachandran Nair, J.

The appellant who was an injured in an accident is aggrieved by the inadequacy of the compensation. The accident occurred on 25.3.2006 at about 2.30 p.m. He was walking along the road side at Ezhilkode towards Pilathara and was hit by a motor cycle bearing Reg.No. KL 03 L6282. He sustained grievous injuries and was granted an amount of ₹60,600/- under various heads.

2. The claimant had adduced evidence before the Tribunal and Exts.A1 to A6 have been marked also. He was an agriculturist aged 65 at the time of the accident and the monthly income claimed is ₹6,000/- and the Tribunal, for assessing permanent disability reckoned ₹2,000/- per month as the notional income which cannot be said to be too low. As far as the injuries are concerned, we have noted that it included fracture superior and inferior pubic ramus, fracture right to acetabulum, fracture lower end of sacrum had abrasion over forehead, left cheek,

dorsal aspect of left hand, both knees of right ankle. There was another wound of 1 x 1 cm. on the dorsal aspect of right middle finger. He was treated in Pariyaram Medical College for a total period of 41 days namely from 25.3.2006 and 24.9.2006 and 6.12.2006 and 20.12.2006. He had to undergo psychiatric treatment also on the second occasion.

3. The learned counsel for the appellant submitted that he had incapacity for a considerable period of time, but the Tribunal has granted partial loss of earnings only for a period of three months. Going by the treatment details and the injuries sustained, we grant partial loss of earnings for a period of six months which will come to ₹12,000/- For transportation expenses, only ₹2,500/- has been granted by the Tribunal, which we enhance to ₹4,500/-. The bystander expenses have been granted by the Tribunal @ ₹100/- per day which we enhance to ₹200/- per day and the total amount will come to ₹8,200/-. As far as pain and suffering is concerned, only ₹16,000/- has been granted. In the light of the period of treatment as well as other hardships he had to suffer, we grant an amount of ₹ 40,000/- for pain and suffering. For loss of amenities and inconvenience also, we grant an amount of ₹10,000/-.

4. Accordingly, the compensation is recalculated as follows :

<i>Head of claim</i>	<i>Amount awarded in rupees</i>
Loss of earnings	12,000 (2000 x 6)
Medical and miscellaneous expenses	24300
Transportation	4500
Bystander expenses	8200
Damage to clothing	500
Pain and suffering	40000
Disability income	7200
Loss of amenities	10000
Total	106700 (Rupees one lakh six thousand seven hundred only)

5. 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 allowed. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE

P.V.ASHA, JUDGE

SV.