

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 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

MACA.No. 1783 of 2012 ()

AGAINST THE AWARD IN OPMV 486/2006 of M.A.C.T.,
THALASSERY DATED 09-03-2012

APPELLANT/PETITIONER:

T.SUNIL KUMAR AGED 38 YEARS
S/O.NARAYANAN, RESIDING AT KOROM AMSOM DESOM
P.O.CHALAKOD, PAYYANNUR VIA., KANNUR DISTRICT.

BY ADV. SRI.M.V.AMARESAN

RESPONDENT(S):RESPONDENTS

1. THE MANAGING DIRECTOR,
KERALA STATE ROAD TRANSPORT CORPORATION
THIRUVANANTHAPURAM, PIN-695001.

2. C.RAJAN,
S/O.ANANDAN, AGED 56 YEARS, RAJEES NIVAS
CHELORA AMSOM DESOM, P.O.KAPPAD, KANNUR DISTRICT
PIN-670 006.

R2 BY ADV. SRI.I.V.PRAMOD
R BY SRI.BABU JOSEPH KURUVATHAZHA,SC,KSRTC
R1 BY SRI SREEPRAKASH R.NAIR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 06-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A No.1783 of 2012

Dated this the 6th day of February, 2015

JUDGMENT

Ramachandran Nair, J.

The appellant a Carpenter by profession was injured grievously in a motor accident which occurred on 3.11.2005. He was treated in Unity Health Complex Mangalapuram Hospital, Mangalore as an inpatient continuously for a period of 17 days.

2. The following are the injuries sustained by him:

1) Laceration right arm with fracture arm bone (humerus)

2) Laceration right wrist with fracture hand bones (Third meta carpel middle finger)

3) Cerebral concussion. (concussional head injury)

4) Laceration right foot.

3. He was admitted in the hospital on 4.11.2005 and was discharged on 20.11.2005. The Tribunal has granted a total compensation of Rs.1,66,840/-.

4. The learned counsel for the appellant submitted that being a Carpenter, the fracture to the middle finger of the right

hand will affect him functionally. It is submitted therefore that the disability assessed at 14% is not correct and there should have been a proper assessment of the functional disability.

5. We find from the award that he has not lost the entire middle finger but the tip of the middle finger alone is lost. Therefore even though the learned counsel for the appellant submitted that there will be functional disability to a greater extent, we cannot agree with the same. His work as a Carpenter will not be affected at all but still for the disability he will have to be adequately compensated.

6. The monthly income claimed by the appellant is @ Rs.9,000/-. The accident is of the year 2005. The question is whether the same could be accepted in toto. He was examined as PW1 before the Tribunal. It cannot be said that the petitioner is having a permanent employment with any establishment but he will be getting work on a regular basis. But still for assessing the compensation, since the accident occurred in the year 2005, we think it proper to accept his monthly income as Rs.4,500/-. The multiplier to be adopted is 16 going by the decision of the Apex Court in **Sarla Verma v. Delhi Transport Corporation** [2010(2) KLT 802(S.C)]. In para.17 the following table is given

showing the computation of the compensation:

<i>Sl.No.</i>	<i>Head of claim</i>	<i>Amt.</i>
1	Loss of earning (total)(@ Rs.3000 per month for 3 months)	Rs. 9,000.00
2	Medical and miscellaneous expenses	Rs. 58,000.00
3	Bystander expenses	Rs. 1,700.00
4	Transportation expenses	Rs. 1,000.00
5	Extra nourishment	Rs. 1,500.00
6	Pain and suffering	Rs. 15,000.00
7	Disability income (3000X14/100X12X16)	Rs. 80,640.00
	TOTAL	Rs. 1,66,840.00

7. For loss of earning, we grant Rs.13,500/-; towards bystander expenses we grant @ Rs.200/- per day for 17 days, which will come to Rs.3,400/-; for transportation expenses also he will be entitled for a reasonable amount since he was treated in Mangalore and we grant Rs.5,000/- towards the same. As far as pain and suffering is concerned, in the light of the seriousness of the injuries and the period of treatment we grant Rs.30,000/-.

8. Accordingly we modify the award as follows:

<i>Sl.No.</i>	<i>Head of claim</i>	<i>Amt.</i>
1	Loss of earning (total)(@ Rs.4500 per month for 3 months)	Rs. 13,500.00
2	Medical and miscellaneous expenses	Rs. 58,000.00
3	Bystander expenses	Rs. 3,400.00
4	Transportation expenses	Rs. 5,000.00

<i>Sl.No.</i>	<i>Head of claim</i>	<i>Amt.</i>
5	Extra nourishment	Rs. 1,500.00
6	Pain and suffering	Rs. 30,000.00
7	Disability income (4500X14/100X12X16)	Rs. 1,20,960.00
	TOTAL	Rs. 2,32,360.00

(Rupees Two lakhs thirty two thousand three hundred and sixty only)

The appellant will be entitled to a total compensation of Rs.2,32,360/- (Rupees Two lakhs thirty two thousand three hundred and sixty only). The enhanced amount will carry interest @9% per annum from the date of petition. The 1st respondent is given 5 months' time to deposit the amount and on such deposit being made, the claimant can withdraw the amount.

The appeal is accordingly allowed. No costs.

Sd/-

T.R.RAMACHANDRAN NAIR
Judge

Sd/-

P.VASHA
Judge

rtr/

/true copy/

P.S to Judge