

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

MACA.No. 2013 of 2012 ()

AGAINST THE AWARD IN OPMV 1501/2004 of MACT,PATHANAMTHITTA DATED
04-07-2012

APPELLANT/PETITIONER:

SARAMMA DAVID AGED 49 YEARS
W/O.PAUL DAVID, PADIYARAYIL PUTHEN VEEDU
THUKALASSERY. THIRUVALLA.

BY ADVS.SRI.T.P.PRADEEP
SRI.P.K.SATHEES KUMAR

RESPONDENTS/RESPONDENTS:

1. K.R.SHA KUMAR
S/O.RAMAN, KULATHINAL HOUSE, KULATHIKANDAM
MELUKAVMATOM P.O. 686652.(deleted)

2. THE MANAGING DIRECTOR,
K.S.R.T.C , THIRUVANANTHAPURAM.695036

* RESPONDENT NO.1 IS DELETED FROM THE PARTY ARRAY AT THE RISK OF
THE APPELLANT AS PER THE ORDER DATED 24.3.2015 IN I.A.NO.1032.2015

R2 BY ADV. P.C.CHACKO (B/O)
R2 BY ADV. ADV. SREEPRAKASH K. NAIR(B/O)
BY SRI.P.K.BEHANAN, SC, KSRTC

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**T.R.RAMACHANDRAN NAIR &
B.SUDHEENDRA KUMAR, JUDGE, JJ.**

M.A.C.A.No.2013 OF 2012

Dated this the 10th day of April, 2015

JUDGMENT

Ramachandran Nair, J.

The appellant got injured in an accident which occurred on 26.07.2004 at about 9.30 a.m. She was travelling in an autorickshaw bearing Reg.No.KL-03 K 5181 through the Thiruvalla-Changanassery public road. When the auto reached near Antos Woods Crafts Shop, Ramanchira, the offending vehicle a KSRTC Super Fast bus bearing Reg.No.KL 15-4463 hit against the autorickshaw and the appellant sustained serious injuries. The appellant was treated as inpatient for a period of 26 days. The serious injuries have been described in paragraph 3 of the appeal memorandum which we reproduce below :

- a) Lacerated wound on scalp 10 x 1.5 cm. On frontal scalp and occipital region.
- b) Lacerated wound extending from left supra orbital region to left angle of mandible through left ear.
- c) Tenderness on mandible.

- d) Fracture mandible
- e) Loose teeth right lower incisor
- f) Swelling on left cheek
- g) Chest wall tenderness
- h) Lacerated wound right elbow anterior aspect 5 x 2 cm, colle's fracture
- i) Closed lacerated wound over the anterior aspect of right elbow
- j) Fracture frontal bone (left)
- k) Fracture (Right) para median mandle
- l) Tenderness (Right) hip joint anteriorly
- m) Tenderness present over great trochanter
- n) Movement of (Right) hip painful
- o) right elbow - closed lacerated wound 5 x 4 cm. Bone deep with contamination movements painfully restricted.
- p) Right wrist - tenderness over lower end of radius
- q) Fracture (right) wrist - lower end of radius with ulna styloid
- r) Fracture 2 metacarpal bone (left).

2. He was treated as inpatient from 26.07.2004 to 21.08.2004.

Appellant had undergone a surgery on 26/07/2014. The appellant sustained 10% permanent disability as evident from the certificate issued by the District Medical Board, General Hospital, Pathanamthitta.

It shows tenderness right hip joint anteriority. The movements of right hip are painful.

3. The learned counsel for the appellant submits that only an amount of ₹82,900/- has been granted by the Tribunal. She was an agriculturist and was also rearing cattle. ₹ 3,000/- was taken as the monthly income for fixing compensation. We find from the table under paragraph 12 that the Tribunal has granted ₹15,000/- towards pain and suffering, ₹7,500/- towards loss of amenities and ₹ 46,800/- towards disability.

4. This is in addition to the amount awarded towards loss of earnings ₹9,000/-, transport to hospital ₹ 500/-, extra nourishment ₹1000/- and for damage to clothing ₹500/- has been awarded.

5. We heard the learned counsel on both sides.

6. Since the appellant was treated as inpatient in the hospital, normally she would be entitled for award of amount towards medical expenses. In this case the bills Ext.A11 series have not been accepted by the Tribunal as they are computer generated copies. The learned counsel for the appellant submits that when treatment certificate shows

the period of treatment as well as evidence to prove surgery, a reasonable amount ought to have been granted by the Tribunal. The total claim for medical expenses is ₹20,000/-. Since she was treated as inpatient for 26 days and had undergone surgery and in the light of the seriousness of the injury sustained, we find that the amount claimed is reasonable. Accordingly, we award a sum of ₹20,000/- towards medical expenses. As far as fixation of monthly income is concerned, since the accident is of the year 2004, we fix it at ₹4,000/- and therefore she will be entitled to ₹ 62,400/- (4000 x 12 x 13 x10%) towards permanent disability. The multiplier taken is 13.

7. Towards pain and suffering, we grant an amount of ₹ 35,000/- considering the period of treatment and the seriousness of the injuries. For loss of amenities, ₹ 25,000/- is awarded. If partial loss of earnings is granted for a period of three months @ ₹4,000/-, it will be ₹ 12,000/-. For extra nourishment, ₹2,000/- is granted.

8. Accordingly, the total compensation is recalculated as follows :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Loss of earnings	12000
Transport to hospital	500
Extra nourishment	2000
Damage to clothings and articles	500
Medical expenses	20000
Bystanders expenses	2600
Pain and suffering	35000
Disability	62400
Loss of amenities of life	25000
Total	160000 (Rupees one lakh sixty thousand only)

The enhanced amount will carry interest @ 9% per annum from the date of petition. The appeal is accordingly allowed. There will be no order as to costs.

T.R.RAMACHANDRAN NAIR, JUDGE

B.SUDHEENDRA KUMAR, JUDGE

SV.