

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. 2015 of 2012 ()

AGAINST THE AWARD IN OPMV 1509/2004 of ADDL.D.C.& MACT,PATHANAMTHITTA
DATED 04-07-2012

APPELLANT(S)/PETITIONER:

BEENA SIMON AGED 37 YEARS
W/O.SIMON, KANIYAMKANDATHIL HOUSE, THUKALASSERY
THIRUVALLA.

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

RESPONDENT(S)/RESPONDENTS:

1. K.R.SHAKUMAR
S/O.RAMAN, KULATHINAL HOUSE, KULATHIKANDAM
MELUKAVUMATTOM P.O. 686652. (DELETED)

2. THE MANAGING DIRECTOR,
K.S.R.T.C THIRUVANANTHAPURAM -695001.
(NAME OF R1 DELETED FROM THE PARTY ARRAY AT THE RISK OF THE APPELANT AS
PER ORDER IN IA 1030/2015 DT.24.3.2015)

R2 BY ADV. SRI.P.C.CHACKO, SC, KERALA STATE ROAD TRANSPORT
CORPN.

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, JJ.**

M.A.C.A.No.2015 of 2012

Dated this the 10th day of April, 2015

JUDGMENT

Sudheendra Kumar, J.

The claimant in O.P.(MV) No.1509/2004 on the file of Motor Accidents Claims Tribunal, Pathanamthitta has filed this appeal challenging the award passed by the Tribunal. The claimant sustained injuries in an accident which occurred on 26.7.2004 at about 9.30 a.m. while she was travelling in an autorickshaw bearing Reg. No.KL-03 K 5181 through Thiruvall - Changanassery public road. A KSRTC bus bearing Reg.No.KL 15-4463 hit against the said autorickshaw and as a consequence, the appellant sustained serious injuries which are stated in paragraph 3 of the memorandum of appeal. We extract the same hereunder:

- “a) Both ears bleed
- b) Left parotid swelling
- c) Lacerated wound on ears
- d) Left wrist swelling, right wrist swelling

- e) Fracture DER with ulnar styloid with shaft of ulna (Right)
- f) Tenderness on right knee patella
- g) Fracture patella
- h) Abrasions on left leg
- i) colles fracture
- j) (Left) fracture distal end of radius (DER) with fracture styloid
- k) (Rt)forearm tenderness present lower end of radius and ulna present and lower shaft
- l) Forearm tenderness present lower end radius

The appellant was aged 37 years at the time of accident. The Tribunal accepted the claim and granted an amount of Rs.1,43,240/- as total compensation to the claimant.

2. We heard the learned counsel for the appellant and the learned counsel appearing for the KSRTC.

3. We find from the award that the appellant had undergone treatment as inpatient for 17 days. She had to undergo operation also in connection with the injuries sustained by her in the accident. The appellant is a housewife. She was also doing tailoring work. We find

that it is only just and proper to take an amount of Rs.4,000/- as the notional income of the appellant. The Tribunal had taken an amount of Rs.3000/- as the monthly income of the appellant and awarded an amount of Rs.96,120/- towards compensation for permanent disability. The appellant sustained 16% permanent disability which was accepted by the Tribunal also. Therefore, she is entitled to an amount of Rs.1,22,880/- ($\text{Rs.4000/-} \times 12 \times 16 \times 16/100$) towards compensation for permanent disability. We are also of the view that since the appellant had undergone inpatient treatment for 17 days, she is entitled to an amount of Rs.3,400/- towards compensation for bystander's expenses. Considering the treatment undergone by the appellant as revealed from the award, we are of the view that an amount of Rs.35,000/- can be granted as compensation towards pain and suffering. As regards the other amounts awarded by the Tribunal, we do not find any reason to enhance the same.

Accordingly, the total compensation is refixed as follows:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal</i>	<i>Modified award passed by this Court</i>
Loss of earning	9000	12000 (Rs.4000/- x 3 months)
Transport to hospital	500	500
Extra nourishment	1000	1000
Damage to clothing	500	500
Medical expenses	15880	15880
Bystanders expenses	1700	3400
Pain and suffering	15000	35000
Permanent disability	92160	122880
Loss of amenities in life	7500	7500
Total		198660

(Rupees One lakh ninety-eight thousand six hundred and sixty only)

The enhanced amount will carry interest at the rate of 9% per annum.

The second respondent is directed to deposit the amount of compensation within three months.

The appeal is allowed as above. The parties will suffer their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(B. SUDHEENDRA KUMAR, JUDGE.)

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