

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

MACA.No. 167 of 2013 ()

AGAINST THE AWARD IN OPMV 248/2005 ON THE FILE OF THE ADDITIONAL
MOTOR ACCIDENTS CLAIMS TRIBUNAL, THALASSERY DATED 09-05-2012

APPELLANT/PETITIONER :

KRISHNAN.K. AGED 65 YEARS
S/O.RAMAN, KOOVAKKADU HOUSE, VEENUS CORNER
THALASSERY, KANNUR DIST

BY ADVS.SRI.C.P.PEETHAMBARAN
SMT.MINI.V.A.

RESPONDENTS/ RESPONDENTS IN OP (MV) :

1. RATHEESAN.V.V.
S/O.NARAYANAN, VADAKKE VEETIL, KANNUR DISTRICT.

2. THE DIVISIONAL MANAGER, NEW INDIA ASSURANCE COMPANY LTD
DIVISIONAL OFFICE, MUTHAPPAN TEMPLE, THAVAKKARA
KANNUR DISTRICT.

R2 BY ADV. SRI.K.C.SANTHOSHKUMAR
BY SRI.A.A.ZIYAD RAHMAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

AL/-

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

M.A.C.A. No.167 of 2013

Dated this the 6th day of April 2015

JUDGMENT

Asha , J.,

The appellant is the injured in a motor vehicle accident which occurred on 31.7.2004. The car bearing registration No. KL-13C/8914 knocked him down while he was walking on the public road in front of Brennan Training College Hostel, Thalassery. He sustained severe injuries and was taken to the Thalassery Co-operative Hospital and from there he was referred to Medical College Hospital, Calicut. After inpatient treatment for a period of 35 days in different spells, his disability was assessed as 4%.

2. The claim petition was filed seeking compensation to the tune of Rs. 2,50,000/-. The Tribunal awarded a sum of Rs. 62460/-. This appeal is filed seeking enhancement of compensation.

3. We heard learned counsel appearing on either sides. It is

seen that the appellant has sustained the following injuries:

1. Fracture of Clavicle (Right).
2. Fracture of 2,3,4,5,6,7 ribs;
3. Fracture of right arm.
4. Fracture of Humerous
5. Fracture of right knee
6. Fracture of tibia
7. Fracture of Fibula.
8. Lacerated wound on the occipital region of scalp;
9. Deformity and contusion over right arm
10. Contusion over right knee.

4. He underwent treatment in the Medical College Hospital, Calicut as an inpatient for the period from 31.7.2004 to 11.8.2004 and from 15.9.2004 to 8.10.2004. It was claimed that he was a lottery ticket seller and the monthly income claimed was Rs. 4,000/-. The Tribunal reckoned his notional income as Rs. 3000/- and assessed compensation. The disability as certified in Ext.X1 was 4%. It can be seen that he underwent various procedures of treatment in different spells

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including inpatient treatment for a period of 35 days. The compensation awarded under the head of pain and suffering was Rs.15,000/-. Having regard to the nature and number of injuries suffered by him and the treatment he had to undertake on account of that, we enhance the compensation under the head of pain and suffering to Rs. 40,000/-. The Tribunal has awarded a sum of Rs. 4000/- only towards bystander's expenses. The accident occurred in the year 2004 and the appellant was in hospital for 35 days. So we enhance the same to Rs.7,000/- at the rate of Rs.200/- per day.

5. Having regard to the wage structure prevailing at the relevant time, we reckon the monthly income as Rs.4000/- per month. Therefore, compensation under the head of disability will come to Rs. 17280/- ($\text{Rs.}4000 \times 12 \times 9 \times 4 / 100$). The Tribunal has granted only Rs. 18,000/- for loss of earnings. We enhance the same to Rs. 24,000/- reckoning Rs.4,000/- as monthly income for a period of six months.

6. Accordingly, we modify the award as follows:

Sl. No.	Heads	Amt.awarded	Amt.modified
1	Loss of earnings	18000	24000
2	Transport to hospital	2000	2000
3	Extra nourishment	1500	1500
4	Medical expenses	9000	9000
5	Bystander's expenses	4000	7000
6	Pain and sufferings	15000	40000
7	Permanent disability	12960	17280
	Total	62460	94480

7. Thus the appellant will be entitled to a total compensation of Rs.94,480/-. The enhanced compensation will carry interest at the rate of 9% p.a from the date of petition. The Insurance Company is directed to deposit the amount within a period of three months.

The appeal is allowed accordingly, The parties will bear their respective costs in the appeal.

Sd/-

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

Sd/-

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

AL/-

True copy

P.A to Judge