

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. 533 of 2007 ( )

AGAINST THE AWARD IN OPMV 523/2001 of MACT, IRINJALAKUDA DATED  
04-08-2006

APPELLANT(S)/PETITIONER:

P.S.SURESH, AGED 13 YEARS, (MINOR),  
REP. BY HIS MOTHER THANKAMONY, W/O. PAPPARY, SIVARAMAN  
KUTTICHIRA VILLAGE, DESOM, THRISSUR DISTRICT.  
(AS PER ORDER IN IA 1117/2015 DATED 24/3/2015 THE APPELANT IS ALLOWED  
TO PROCEED WITH THE APPEAL IN HIS OWN NAME)  
BY ADV. SRI.V.BINOY RAM

RESPONDENT(S)/RESPONDENTS:

1. T.R.SIDHARTHAN, (DRIVER),  
S/O. THAIVALAPPIL RAMAKRISHNAN, MELOOR VILLAGE  
ADICHILLY DESOM, THRISSUR DISTRICT.
  2. T.V.ARAVINDAKSHAN, (OWNER),  
"ARAVIND" ROSE GARDEN, PERINGAVU, THRISSUR DISTRICT.
  3. THE BRANCH MANAGER,  
NATIONAL INSURANCE CO. LTD., IRINJALAKUDA BRANCH  
MALIAKKAL BUILDING, P.B.NO.70, IRINJALAKUDA.
- R,R3 BY ADV. SRI.MATHEWS JACOB (SR.)  
R,R3 BY ADV. SRI.P.JACOB MATHEW

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.**

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**M.A.C.A.No.533 of 2007**  
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**Dated this the 10<sup>th</sup> day of April, 2015**

**JUDGMENT**

**Sudheendra Kumar, J.**

This appeal has been filed by the claimant in O.P.(MV) No.523/2001 on the file of the Motor Accidents Claims Tribunal, Irinjalakuda challenging the quantum of award granted by the Tribunal in an accident occurred to the appellant on 3.8.1999. The allegation is that while the appellant was walking along the National Highway, he was dashed down by a lorry bearing Reg. No.KL-8/40 driven by the first respondent. The appellant was only 8 years of age at the relevant time. He sustained injuries including head injury. The medical assessment report would show that the appellant sustained permanent disability of 45%. The Tribunal awarded a sum of Rs.1,29,559/-.

2. We heard the learned counsel for the appellant and the learned counsel for the insurance company.

3. The Tribunal found that the claimant sustained permanent

disability of 45%. The claimant was awarded an amount of Rs.8,700/- as bystander's expenses for the period of his inpatient treatment for 87 days. He has produced medical bills for a sum of Rs.2,109/- which were accepted by the Tribunal and awarded the said amount towards medical expenses. An amount of Rs.500/- was awarded towards transport to hospital. The claimant was also awarded a sum of Rs.12,000/- towards compensation for pain and suffering. An amount of Rs.5,000/- was awarded towards loss of amenities and happiness in life. The monthly income of the claimant was assessed at Rs.1,250/- as the claimant was found to be only aged 8 years at the time of accident. Accordingly, an amount of Rs.1,01,250/- was fixed as the amount towards compensation for permanent disability. The Tribunal calculated the amount using the multiplier 15 in arriving at the said figure. The learned counsel for the appellant has relied upon the decision of the Apex Court in **Master Mallikarjun v. The National Insurance Company Ltd.** (2013 (3) KLJ 815) and argued that since the claimant sustained permanent disability of 45%, he is entitled to an amount not less than Rs.4 lakhs as compensation in addition to the actual expenditure for treatment, attendant, etc. The Apex Court in the

above case held that if the claimant sustained disability upto 60%, an amount of Rs.4 Lakhs can be awarded as compensation in addition to the actual expenditure for medical treatment, attendant, etc. We have considered the above argument and we are satisfied that since the appellant sustained permanent disability of 45%, the appellant is, no doubt, entitled to an amount of Rs.4 Lakhs as compensation in addition to the actual expenditure for treatment, attendant, etc. as held by the Apex Court in the above decision. We are also of the opinion that in addition to the above, the claimant is entitled to an amount of Rs.8,700/- towards bystander's expenses as he had undergo treatment as inpatient for 87 days in connection with the accident in this case. The claimant is also entitled to an amount of Rs.4,000/- towards extra nourishment and an amount of Rs.2,000/- towards transport to the hospital. Since the claimant was aged only 7 years at the time of accident, there is loss of marriage prospects for the claimant. In the circumstances, we are of the view that an amount of Rs.40,000/- can be granted as compensation on that count.

Thus, the total compensation is refixed as follows:

| <i>Head of claim</i>                       | <i>Amount awarded by<br/>the Tribunal</i> | <i>Modified award<br/>passed by this Court</i> |
|--------------------------------------------|-------------------------------------------|------------------------------------------------|
| Attendant Expenses                         | 8700                                      | 8700                                           |
| Extra nourishment                          |                                           | 4000                                           |
| Medical Expenses                           | 2109                                      | 2109                                           |
| Transportation charges                     | 500                                       | 2000                                           |
| Pain and suffering                         | 12000                                     | 12000                                          |
| Loss of amenities and<br>happiness in life | 5000                                      | 5000                                           |
| Permanent disability                       | 101250                                    | 400000                                         |
| Loss of marriage prospects                 |                                           | 40000                                          |
| Total                                      |                                           | 473809 (rounded off to<br>473800)              |

(Rupees four lakhs seventy-three thousand and eight hundred only)

The enhanced amount of compensation will carry interest at the rate of 9% per annum from the date of petition till realisation and the insurance company is directed to deposit the entire amount of compensation, less the amount already deposited before the Tribunal, within a period of 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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