

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 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

MACA.No. 854 of 2013 ()

AGAINST THE AWARD IN OPMV 1743/2013 of M.A.C.T.,ERNAKULAM DATED 29-10-2012

APPELLANT(S):PETITIONER

DHANRAJ.D.V. AGED 28 YEARS
S/O. VISWAMBHARAN, DHANYA BHAVAN, THOTTAPPILLY ROAD
ERAMALLOOR.P.O., ERAMALLOOR VILLAGE, CHERTHALA TALUK
ALAPPUZHA DISTRICT.

BY ADV. SRI.MATHEWS K.PHILIP

RESPONDENT(S):RESPONDENTS

1. SHAMEER.P.H.
S/O. HAMSA.P.A. ANJARAMURIPAREAMBU HOUSE, CHULLICKAL
THOPPUMPADY, KOCHI-682005.

2. JALEEL
S/O. BAPPU, KARUDITHARAPARAMBIL HOSUE, KZHATHRIKADAVU
KALoor.P.O., ERNAKULAM-682017.

3. THE NEW INDIA ASSURANCE COMPANY LIMITED
ST. JOSEPH'S BUILDING, PERUMBAVOOR. PIN-683542.

R3 BY ADV. SMT.M.MEENA JOHN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.854 of 2013

Dated this the 27th day of February, 2015

JUDGMENT

Ramachandran Nair, J.

The appellant sustained injuries in a motor vehicle accident which occurred on 9.4.2010. He was riding a motor cycle bearing Reg. NO.KL-32A 8089 through Thoppumpady - Edakochi Road and when it reached near Marunnukada Palluruthy bus stop, the offending vehicle, viz. autorickshaw bearing Reg. No.KL-7BH 9782 hit on the motor cycle. He sustained the following injuries:

“(1)Partial amputation of left finger; (2) Lacerated wound on the right ring finger; (3) Abrasion on right arm; (4) Fracture of both bones of leg open knee joint left; and (5) Fracture of shaft of middle phalanx little finger right hand.”

The Tribunal granted a total amount of Rs.37,600/-.

2. Before the Tribunal, the claimant could not produce the

medical bills but the Tribunal granted an amount of Rs.5,000/- for treatment expenses. Before this Court, the appellant has produced the medical bills. The total amount covered by the bills is Rs.41,583/-.

3. Learned counsel for the insurance company submitted that the appellant ought to have produced the bills before the Tribunal. But since the treatment in the Medical Trust Hospital has been continued by the appellant, we find no reason to disallow the claim. Therefore, an amount of Rs.41,583/- is treated as medical expenses. Since already an amount of Rs.5,000/- has been granted by the Tribunal, the remaining amount alone is awarded to the appellant under the head of medical expenses.

4. As far as other counts are concerned, learned counsel for the appellant submits that there is a partial amputation of left little finger for which also compensation is to be granted. But we find that there is no functional disability because of the amputation. Considering the treatment in two hospitals, we award an amount of Rs.25,000/- towards compensation for pain and suffering and we grant an amount of Rs.250/- per day towards by-stander expenses. On all other counts, the

Tribunal has granted reasonable amounts.

Accordingly, the compensation is recomputed in the following manner:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Modified award passed by this Court (Rs)</i>
transportations expenses	2000	2000
Damage to clothing	1000	1000
Extra nourishment	1000	1000
Treatment expenses	5000	Rs.41583/-
Bystander's expenses	1600	2000
Shock, pain and suffering	18000	25000
Loss of amenities and enjoyment in life	9000	9000
Total		81583 (rounded off to 81580)

(Rupees Eighty-one thousand five hundred and eighty only)

As far as the enhanced amount is concerned, the interest for the same only will be paid at the rate of 9% per annum from the date of petition 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 bear their

respective costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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