

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

MACA.No. 1099 of 2007 ()

AGAINST THE AWARD IN OPMV 899/2002 of M.A.C.T., KOZHIKODE DATED
12-10-2006

APPELLANT/PETITIONER IN OP (MV) :

ABDUL NAZER, S/O HAMZA, AGED 36 YEARS,
RESIDING AT PALATHINGAL HOUSE, P.O.VENAPPARA
(VIA) KODUVALLY, KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS/RESPONDENTS IN OP (MV) :

1. K.C.MOOSA, S/O.ABOOBACKER, AGE NOT KNOWN
RESIDING AT KUNNUMMAL HOUSE, P.O.NADAMMAL POYIL
PUTHOOR, OMASSERY, KOZHIKODE. (DELETED)

2. RISVAN, S/O.MUHAMMED, AGE NOT KNOWN,
RESIDING AT IDAKKAD HOUSE, P.O.OMASSERY, KOZHIKODE.
(DELETED)

3. UNITED INDIA INSURANCE COMPANY LTD.,
DIVISIONAL OFFICE, WHITE LINES BUILDING, KALLAI ROAD
KOZHIKODE.

* RESPONDENTS 1 AND ARE DELETED FROM PARTY ARRAY AS PER ORDER
DATED 27.2.2015 IN I.A.NO.749/2015

R3 BY ADV. SRI.RAJAN P.KALIYATH

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.1099 OF 2007

Dated this the 18th day of March, 2015

JUDGMENT

Asha, J.

The appellant met with an accident on 14.12.2001 while he was travelling in an autorickshaw bearing Reg.No.KL 11/J 3847, which was capsized. He sustained very serious injuries and was taken to Santhi Hosptial, Omassery and thereafter to the Medical College Hospital, Kozhikode. Hip lesion, swell, tenderness and fracture of left ilium were seen recorded in Ext.A2 wound certificate. At Medical College Hospital, he underwent treatment for compound fracture of ilium. He was advised bed rest as the fracture involves debridgement. The disability was certified as 1% as there was stiffness on the hip on the left side.

2. The claim petition was filed before the Tribunal seeking compensation to the tune of ₹2 lakhs. It was claimed that the appellant was working as a rubber tapper and was earning a monthly income of

₹6,000/-. The Tribunal awarded a sum of ₹9,040/-. This appeal is filed seeking enhancement of compensation.

3. We heard the learned counsel on either side.

4. The Tribunal has reckoned the monthly income of the appellant as ₹1,000/-. At the same time, the multiplier adopted is 17, which in accordance with the judgment of the Apex Court in **Sarla Varma v. Delhi Transport Corporation (2010 (2) KLT 802 (SC)** is

16. In the light of the wage structure prevailing at the relevant time, we fix the monthly income of the appellant as ₹3,000/-. Therefore the compensation under the head of permanent disability will come to ₹5,760/- (3000 x 12 x 16 x 1%).

5. The Tribunal has awarded a sum of ₹ 4,000/- alone towards pain and suffering. It is seen that the appellant sustained compound fracture of ilium and was advised to be on bed rest. Having regard to the nature of the injuries and the treatment undergone and the discomfort and inconvenience he suffered, we enhance the same to ₹12,000/-. The Tribunal has awarded only ₹750/- towards hospitalization for 5 days, which we enhance to ₹1,000/-. Since the

appellant was taken to two hospitals, we enhance the amount awarded towards transportation to ₹1,000/-.

6. Accordingly, the award of the Tribunal is modified as follows :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Disability	5760
Transportation	1000
5 days hospitalization including incidental damage	1000
Medical treatment including Ext.A4 series	1500
Damage to clothing	250
Pain and suffering	12000
Total	21510

7. The amount will carry interest @ 9% per annum from the date of petition. The Insurance Company shall deposit the amount less the amount already deposited within a period of three months from the date of receipt of a copy of this judgment.

The appeal is accordingly allowed.

T.R.RAMACHANDRAN NAIR, JUDGE

sv.

P.VASHA, JUDGE