IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&
THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

MACA.No. 1189 of 2015

AGAINST THE AWARD IN OPMV 904/2010 of MACT, IRINJALAKUDA DATED 18-11-2014

APPELLANT(S)/PETITIONER:

SHAIJU, AGED 34 YEARS,
S/O.JOSEPH, MECKATTUPARAMBIL HOUSE,
KUTTICHIRA DESOM,
VILLAGE, THRISSUR DISTRICT.

BY ADV. SRI.V.BINOY RAM

RESPONDENT(S)/RESPONDENTS:
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1. SREENIVASAN,
S/O.KESAVAN, CHERUDATH HOUSE, ELINJIPRA,
THRISSUR DISTRICT, PIN - 680 721.

2. SHELLY
S/O.AMBROS, PALLIYIL HOUSE, 286/11,
KANDAMKULAM, METHALA, KODUNGALLUR,
THRISSUR DISTRICT, PIN - 680 669.

3. THE BRANCH MANAGER,
UNITED INDIA INSURANCE COMPANY LTD., P.B.NO.1,
SOUTH JUNCTION, CHALAKUDY, PIN - 680 307.

R3 BY ADV. SRI.P.SANKARANKUTTY NAIR
SRI.JOHN JOSEPH VETTIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 19-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMACHANDRA MENON &
K. HARILAL, JJ.

M.A.C.A. No.1189 of 2015

Dated this the 19th day of October, 2015

JUDGMENT

Ramachandra Menon, J.

Inadequacy of the compensation awarded by the Tribunal in respect of the injuries sustained by the appellant in a road traffic accident is the subject matter of challenge in this appeal.

2. The accident occurred on 15/12/2010, when the motorcycle which was being ridden by the appellant was knocked down by a tempo bearing Registration No.KL-5/G 3132 owned by the 1st respondent, driven by the 2nd respondent and insured by the 3rd respondent. Serious injuries were caused, including two fractures to both the bones of the right

leg and such other injuries. The challenge raised from the part of the Insurance Company, after admitting the policy, was on general grounds. Claim was that the appellant was a 29 years old youth, who was eking his livelihood as a construction worker, obtaining a monthly income of ₹10,000/-. But, no evidence was adduced, either oral or documentary, to substantiate the facts and figures. Same was the position with regard to the extent of disability claimed at 8% vide Ext.A8 certificate. On conclusion of the trial, the Tribunal arrived at the negligence on the part of the driver of the tempo and liability was sought to be fixed accordingly.

3. Fact remains that no evidence was adduced with regard to the employment or income. A notional figure of ₹3,500/- was reckoned as the monthly income. The Tribunal further held that the extent of disability certified as per Ext.A8 was never proved and that, in the course of hearing, based on the consent of both the sides, as stated in paragraph-6, the disability was reckoned as 3% and the compensation was

worked out granting a total sum of ₹74,850/- which was directed to be satisfied with interest at the rate of 7.5% per annum. This is grossly inadequate, according to the appellant, and hence this appeal.

4. Heard the learned counsel for the appellant as well as the learned counsel appearing for the Insurance Company.

5. It is true that no evidence was adduced by the appellant/claimant as to the employment or income. However, considering the fact that he was a general worker and was aged about 29 years and further that the accident occurred was in the year 2010, the monthly income, for the purpose of calculation involved in this case, is enhanced to ₹4,500/-. This, in turn, will result in an additional sum of ₹3,000/- towards loss of earning, over and above the amount awarded by the Tribunal. It is seen that the Tribunal has awarded only ₹15,000/- towards pain and suffering. Considering the gravity of the injuries and the accepted disability of 3%, we grant enhancement by awarding a further sum of ₹15,000/- under this

head. Similarly, towards the loss of amenities, the Tribunal has awarded only ₹10,000/-. The hospitalisation itself was for 41 days. Considering the ordeal and suffering undergone by the appellant, we find it fit and proper to grant a further sum of ₹15,000/- under this head as well. Thus, the total balance compensation payable comes to ₹33,000/- (Rupees Thirty three thousand only) which is required to be satisfied with interest at the rate of 9% per annum from the date of filing the petition, till satisfaction. Since the policy is admitted, we direct the Insurance Company to deposit the said amount within a period of one month from the date of receipt of a copy of this judgment.

This appeal is disposed of accordingly.

Sd/-

(P.R. RAMACHANDRA MENON, JUDGE)

Sd/-

(K. HARILAL, JUDGE)

Nan/ //true copy// P.S. to Judge