

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

MACA.No. 1305 of 2013 ()

AGAINST THE AWARD IN OPMV 1490/2006 of M.A.C.T.,ATTINGAL DATED
28-03-2013

APPELLANT/APPLICANT:

SOPHIA N. AGED 33 YEARS
AL-AMEEN HOUSE, THOTTAKKADU P.O., KALLAMBALAM
THIRUVANANTHAPURAM.

BY ADVS.SRI.R.T.PRADEEP
SRI. J.ROBINSON

RESPONDENT/RESPONDENT:

THE MANAGING DIRECTOR
KSRTC, TRANSPORT BHAVAN, EAST FORT
THIRUVANANTHAPURAM.695 001

BY SRI.P.K.BEHANAN,SC,KSRTC

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 20-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**T.R.RAMACHANDRAN NAIR &
K.P.JYOTHINDRANATH, JJ.**

M.A.C.A.No.1305 OF 2013

Dated this the 20th day of August, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by the claimant in O.P.(MV) No.1490/2006 decided by the Motor Accidents Claims Tribunal, Attingal. The accident has been proved by the evidence adduced by the claimant. The Tribunal has disposed of four claim petitions together by a common judgment. The appellant herein along with others were travelling in a KSRTC stage carriage bearing Reg.No.KL-15/4121 along Ambalathinkara - Attingal NH road on 4.3.2006 at 6 p.m. The bus it appears hit the heap of sand collected on the side of the road and thereafter it knocked down two persons and later capsized, whereby bodily injuries were caused to the claimants including the appellant.

2. Herein, the only the grievance is regarding the amount of compensation. The Tribunal has granted a lump sum amount of ₹5,000/- by way of compensation for having sustained bodily injuries.

3. Heard the learned counsel for the appellant and the learned counsel for the KSRTC.

4. The appellant sustained bodily injuries like haematoma occipital region right, right frontal region, clavicle spine and greater tuberosity. Ext.A5 series are the O.P. Tickets and she was treated in the Medical College Hospital, Thiruvananthapuram. Ext.A4 is the copy of the treatment certificate and Ext.A6 is the scan report.

5. The Tribunal was of the view that the petitioner has not sustained any grievous injuries. We have gone through Exts.A4, A5 and A6. Ext.A4 is the treatment certificate. It is seen that she was advised rest for a couple of weeks and medicines were prescribed also. Going by Ext.A5, it can be seen that she had sustained fracture on the right shoulder. She was advised to have bed rest also and medicines were prescribed. The learned counsel for the appellant submits that because of the facial injury and the injury to the neck, she had to suffer much pain. These aspects have not been considered by the Tribunal.

6. The learned counsel for the KSRTC submits that only minor injuries have been caused.

7. We are of the view that the claimant is entitled for compensation under the head of special and general damages. It is a case where she had to suffer cervical sprain also, which is clear from Ext.A4. Of course, she had availed of treatment from the Medical College Hospital. No bills have been produced to prove the medical expenses.

8. After considering various aspects, we are of the view that the appellant will have to be adequately compensated for pain and suffering, partial loss of enjoyment of life and reasonable compensation will have to be granted for miscellaneous expenses like transportation and extra nourishment.

9. We award ₹20,000/- towards pain and suffering, ₹5,000/- towards partial loss of amenities and another ₹5,000/- for other expenses. Therefore, the total compensation will be ₹35,000/- (Rupees thirty five thousand only), including the amount of ₹5,000/- already granted by the Tribunal. The amount of compensation will carry interest @ 9% per annum from the date of petition. We direct the respondent to deposit the amount within a period of four months. We

also permit the appellant to withdraw the amount once deposited.

The appeal is accordingly allowed. The parties will suffer their costs in the appeal.

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH,JUDGE

SV.