

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

MACA.No. 1051 of 2011 ()

AGAINST THE AWARD IN OPMV 1428/2007 of II ADDL. MACT, KOZHIKODE
DATED 15-12-2010

APPELLANT:PETITIONER

ATULRAJ, S/O. MOHANAN,
AGED 15 YEARS ON DATE OF PETITION, (DOB 8-8-1992)
NOW A MAJOR, RESIDING AT 'SMRUTHY' HOUSE
VELUR, ATHOLI, KOZHIKODE DISTRICT.

BY ADV. SRI.V.KRISHNA MENON

RESPONDENT(S):RESPONDENTS

1. E. VINODAN, AGE NOT KNOWN S/O. DAMU,
PUTHIYOTTUKANDIYIL HOUSE, PAYYOLI
KOZHIKODE DISTRICT. (R.C. OWNER OF THE BUS BEARING
REGN. NO.KL-18-5112)

2. RAJESH, S/O. APPUKUTTY NAIR, AGED 31
YEARS, RESIDING AT MOTTAMMIL HOUSE, CHENOLI ROAD
PERAMBRA, KOZHIKODE DISTRICT.(DRIVER OF THE BUS
BEARING REGN. NO.KL-18-5112).

3. THE ORIENTAL INSURANCE COMPANY LTD.,
SEEMA BUILDING, G.H.ROAD, KOZHIKODE. (INSURER OF
THE BUS BEARING REGN. NO.KL-18-5112)

R,R3 BY ADV. SRI.VPK.PANICKER

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A No.1051 of 2011

Dated this the 24th day of March, 2015

JUDGMENT

Ramachandran Nair, J.

The appellant, who was a minor at the time of the filing of the petition, aggrieved by the inadequacy of the compensation, has filed this appeal. Rs.34,783/- is the total amount of compensation awarded by the Tribunal, the details of which are shown below:

<i>Sl.No.</i>	<i>Head of claim</i>	<i>Amt.awarded</i>
1	Transport to Hospital	Rs. 500.00
2	Extra nourishment	Rs. 1,000.00
3	Loss of earnings	nil
4	Bystander's expenses	Rs. 1,700.00
5	Treatment expenses	Rs. 8,083.00
6	Pain and suffering	Rs. 10,000.00
7	Loss of amenities	Rs. 13,500.00
	Total	Rs. 34,783.00

2. Going by the evidence, the accident occurred on 28.01.2007 at 1.20 p.m. Serious injuries were caused to him. He sustained lacerated wound right leg 10X3X2, Compound

fracture both bones of right leg, Type III and fracture right femur. He was admitted in the hospital and discharged from there on two spells, namely from 28.01.2007 to 13.02.2007 and 17.04.2008 to 19.04.2008. Various documents have been produced to show these facts.

3. The Tribunal fixed the notional income at Rs.15,000/- per year and adopted multiplier of 15 after considering that he was of the age of 15 years at the time of the accident.

4. Before us the learned counsel for the appellant contended that the compensation awarded is too low. We heard the learned counsel for the Insurance Company also, who opposed the claim for enhancement.

5. The Tribunal has granted amounts under the heads pain and suffering and loss of amenities, but no amount is granted towards disability even though by adopting multiplier method an amount has been arrived at Rs.13,500/-. The said amount actually should have been awarded towards permanent disability sustained by the appellant. Therefore we convert the amount Rs.13,500/- to that of permanent disability and we award a further amount of Rs.15,000/- towards loss of amenities and loss of enjoyment in life. We enhance the amount granted under

the heads pain and suffering from Rs.10,000/- to Rs.20,000/-, bystander's expenses from Rs.1,750/- to Rs.4,250/-, ie. @250/- per day for 17 days, transport to hospital from Rs.500/- to Rs.3,000/- and extra nourishment from Rs.1,000/- to Rs.2,500/-. The percentage of disability is 6%.

6. The award is accordingly modified as follows:

<i>Sl.No.</i>	<i>Head of claim</i>	<i>Amt.awarded</i>
1	Transport to Hospital	Rs. 3,000.00
2	Extra nourishment	Rs. 2,500.00
3	Permanent disability	Rs. 13,500.00
4	Bystander's expenses	Rs. 4,250.00
5	Treatment expenses	Rs. 8,083.00
6	Pain and suffering	Rs. 20,000.00
7	Loss of amenities	Rs. 15,000.00
	Total	Rs. 66,333.00 round off to Rs. 66,300.00

(Rupees Sixty six thousand and three hundred only)

The appellant will be entitled to a total compensation of Rs.66,300/- (Rupees Sixty six thousand and three hundred only) and the enhanced amount will carry 9% interest per annum from the date of petition. The Insurance Company is directed to deposit the entire amount of compensation within a period of three months from the date of receipt of a copy of this judgment,

less the amount already deposited before the Tribunal and on such deposit being made, the claimant can withdraw the amount.

The appeal is allowed accordingly. The parties will bear their respective costs in this appeal.

Sd/-
T.R.RAMACHANDRAN NAIR
Judge

Sd/-
P.VASHA
Judge

rtr/

/true copy/

P.S to Judge