

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. 1442 of 2013 ()

AGAINST THE AWARD IN OPMV 788/2011 of M.A.C.T., KOTTAYAM DATED 20-02-2013
APPELLANT(S)/PETITIONER:

LALCY.K.C.
KAVALAYIL LAL BHAVAN HOUSE, MOOLAVATTAM P.O.
PANACHIKKADU, KOTTAYAM.

BY ADVS.SRI.K.A.HASHIM
SRI.M.I.ISMAIL

RESPONDENT(S)/RESPONDENTS:

1. ROBERT JOSEPH
PANAMKOTTU PARAMBU, MUTTAR P.O., ALAPPUZHA PIN 689574.

2. SHOBY SHANKAR, MANNATHU, PUTHEN PARAMBIL MOOLAVATTOM P.O
KOTTAYAM PIN 686012.

3. THE NATIONAL INSURANCE CO.LTD, DIVISIONAL OFFICE, KOTTAYAM
PIN : 686001.

R3 BY ADV. SMT.SARAH SALVY

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.1442 of 2013

Dated this the 27th day of February, 2015

JUDGMENT

Asha, J.

The appellant met with an accident on 13.10.2010 while travelling as a pillion rider in a motor cycle when the motor cycle overturned. He sustained severe injuries and was taken to St. Thomas Hospital, Chethipuzha and from there, to S.H. Medical Centre, Kottayam.. He sustained comminuted volar barton and ulnar styloid fracture and DRUJ disruption left forearm. He underwent inpatient treatment for a period of 5 days from 13.10.2010 to 18.10.2010. During this period he was treated with open reduction and internal fixation with bettress plating and 'K' wire stabilization left forearm under block arm. For the purpose of 'K' wire removal he was again admitted in S.H. Medical Centre, on 29.12.2010 and was discharged on 30.12.2010. Again he was admitted in S.H. Medical Centre, Kottayam on 26.9.2012 for implant removal and was discharged on

27.9.2012.

2. The claim petition was filed seeking compensation to the tune of Rs.3,10,000/- and the Tribunal awarded a sum of Rs.1,51,840/-. This appeal is filed seeking enhancement of compensation. Learned counsel for the appellant submits that the income reckoned for the purpose of assessment of compensation is too low.

3. The appellant is a qualified accountant working in a private firm. It is therefore submitted that the compensation is liable to be enhanced with reference to the monthly income shown in Ext.A9 salary certificate which shows that his salary was Rs.10,000/-.

4. Learned counsel for the insurance company opposed the claim for enhancement.

5. We find that the appellant has been working as an accountant and he was duly qualified also. Having regard to the wage structure prevailing at the relevant time, we are of the view that a sum of Rs.6,500/- can be reckoned as the monthly income of the appellant. The Tribunal has awarded a sum of Rs.18,000/- as loss of earnings for a period of four months. Since we have fixed the monthly income at the

rate of Rs.6,500/-, the compensation for loss of earnings will come to Rs.26,000/-. Towards bystander's expenses, the Tribunal has awarded a sum of Rs.1,400/- for seven days, reckoning Rs.200/- per day. We enhance the same to Rs.1,750/-, reckoning Rs.250/- per day. Towards compensation for pain and suffering, the Tribunal has awarded a sum of Rs.22,000/-. It is seen that the appellant was unable to attend his duties for a period of four months on account of the fracture sustained on his arms. Having regard to the treatment undergone and the inconvenience experienced, we enhance the compensation under this head to Rs.30,000/-. Under the head of permanent disability, the compensation will be Rs.74,880/- (Rs.6500 x 12 x 6 x 16/100).

Thus, the total compensation will be as follows:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Modified award passed by this Court (Rs)</i>
transportations	2000	2000
Extra nourishment	1000	1000
Damage to clothing	500	500
Bystander expenses	1400	1750
Medical expenses	45860	45860
Loss of earnings	18000	26000
Pain and suffering	22000	30000

<i>Head of claim</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Modified award passed by this Court (Rs)</i>
Loss of amenities	15000	15000
Permanent disability	46080	74880
Total		196990 (rounded off to Rs.1,97,000/-)

(Rupees One lakh and ninetyseven thousand only)

The enhanced amount will carry interest at the rate of 9% per annum 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 costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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