

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 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

MACA.No. 1192 of 2011 ()

AGAINST THE JUDGMENT AND AWARD IN OPMV 279/2005 ON THE FILE OF THE
MOTOR ACCIDENTS CLAIMS TRIBUNAL, THRISSUR DATED 19-06-2010

APPELLANT/PETITIONER:

ABU FAIZAL

HOUSE, NOW RESIDING AT THIRUVANIKKAVU, OLLUKKARA
THRISSUR DISTRICT

BY ADV. SRI.T.C.SURESH MENON

RESPONDENTS/RESPONDENTS:

1. ABDUL SALIM, S/O.KABIR,
SABEENA MANZIL, 11/401, KADAMBIDI
CHITTHILANCHERY P.O., MELARCODE, PALAKKAD DISTRICT
PIN- 678 704

2. THE NEW INDIA ASSURANCE CO.LTED,
SREEVALLI BUILDINGS, ANICODE, CHITTUR
PALAKKAD DISTRICT
PIN- 678101

R2 BY ADV. SMT.M.HEMALATHA

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

AL/-

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

M.A.C.A No.1192 of 2011

Dated this the 11th day of March 2015

JUDGMENT

Asha, J.,

The appellant is the injured in a motor vehicle accident which occurred on 27.11.2004. While appellant was riding on a motorcycle as pillion rider, he was hit down by the offending motor cycle. He sustained very serious injuries and was immediately taken to Crecent Hospital at Alathur and thereafter taken to Aswini Hospital, Thrissur. After inpatient treatment for a period of four days, he underwent out patient treatment for another 4 days. This appeal is filed seeking enhancement of compensation. Learned counsel for the appellant submitted that the amount awarded by the Tribunal under various heads are thoroughly inadequate.

2. We heard the learned counsel for the respondent Insurance Company also who opposed enhancement of compensation stating that the amount awarded under various

heads are just and reasonable.

3. It is seen that the appellant sustained injuries of fracture of left Clavicle and a lacerated wound 4x0.5 cm on right forehead with depressed fracture of Frontal Bone and application of Clavicle Brace as a curative measure. He remained in the hospital for four days and continued medication for five days after discharge. The appellant was aged 17 years old at the time of the accident. The Tribunal has awarded Rs.750/- for transportation, for extra nourishment Rs. 1,500/-, for by stander's expenses Rs.1,500/-, Rs. 10866/- for treatment, for damages to clothing Rs. 500/-, Rs. 15,000/- for pain and suffering, and Rs. 5,000/- for discomforts and inconveniences.

4. Learned counsel for the appellant submitted that major portion of the award amount was towards treatment expenses. The Tribunal has awarded a sum of Rs. 5,000/- alone towards discomfort and inconvenience. In view of the fact that appellant became disabled to enjoy the normal amenities of life during the period of treatment and thereafter on account of fracture of clavicle and frontal bone, we award a sum of Rs. 5000/- towards

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loss of enjoyment and amenities in life in addition to the compensation already awarded.

5. Accordingly, the award passed by the Tribunal is enhanced by Rs. 5,000/- which will carry interest at the rate of 9% p.a from the date of petition in the light of the judgment of the apex court in **Supe Dei(Smt.) & Ors. v. National Insurance Co. Ltd. and Anr. [(2009)4 SCC 513]**.

6. The Insurance Company is directed to deposit the entire 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 allowed accordingly. The parties will suffer their costs in this appeal.

T.R.RAMACHANDRAN NAIR
(JUDGE)

P.V.ASHA
(JUDGE)

AL/-