

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

MACA.No. 1921 of 2007 (Y)

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AGAINST THE AWARD IN M.V.O.P. 1442/2000 OF MOTOR ACCIDENTS CLAIMS
TRIBUNAL, IRINJALAKUDA DATED 23-07-2007**

APPELLANT/PETITIONER::

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M.V. PRADEEP,
S/O. MAZHUMPILLY VELAYUDHAN, WEST CHALAKUDY P.O.&
VILLAGE, MUKUNDAPURAM TALUK, THRISSUR DISTRICT.**

**BY ADVS.SRI.P.V.BABY
SRI.A.N.SANTHOSH**

RESPONDENTS/RESPONDENTS 1,3 & 4::

- * 1. RAMAKRISHNAN,
EDATHARA HOUSE, CHEROOR P.O., VILVATTAM PANCHAYATH
THRISSUR DISTRICT. (DELETED)**

**[R1 IS DELETED FROM THE PARTY ARRAY AT THE RISK OF THE APPELLANT
VIDE ORDER DATED 17.2.2014 IN I.A.436/2014 IN MACA 1921/2007]**

- 2. NARAYANANKUTTY,
S/O. VALLATHERI NARAYANI AMMA, CHEROOR P.O., THRISSUR.**

- 3. THE DIVISIONAL MANAGER,
UNITED INDIA INSURANCE CO. LTD., THRISSUR.**

**R2 BY ADVS. SRI.M.H.HANIL KUMAR
SRI.K.C.VISWAMBHARAN**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

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

M.A.C.A. No.1921 of 2007

Dated this the 5th day of June, 2015

J U D G M E N T

Ramachandran Nair, J.

In this appeal filed by the appellant/claimant the main grievance is regarding the inadequacy of compensation granted by the Tribunal. It is a case where the appellant sustained injuries which have resulted in loss of vision of the left eye. This factor has not been considered by the learned Tribunal.

2. The appellant was riding his motorcycle bearing registration No.KL-8/N 1664 on 24.10.1999 through NH-47 and the accident occurred near Angamaly Junction. It was hit by a car bearing registration No.KLO/7029.

3. He was immediately taken to L.F. Hospital, Angamaly and his left eye was dressed and bandaged and he was discharged on the same day. According to the appellant, he was readmitted on 30.10.1999 and after

removal of bandage it was noticed that he has lost his vision of left eye due to post-traumatic Optic Neuropathy. It is submitted that this is clear from Ext.A3 wound certificate itself which was overlooked by the Tribunal.

4. Heard both sides. Learned counsel for the Insurance Company supported the award.

5. We have gone through Ext.A3 Accident Register-Cum-Wound Certificate. The injuries noted initially are a small transverse injury just above left eyelid and a small abrasion on dorsum of left leg. It is seen that he was readmitted on 30.10.1999 due to diminution of vision. The impression noted are (a) post traumatic optic neuropathy (left eye) and (b) loss of vision of left eye. It is also seen from column No.17 as regards condition on discharge as “not satisfactory, loss of vision of left eye”. Ext.A7 is the certificate issued by Dr. Tony S. Fernadez wherein it is recorded that he has complete loss of vision of left eye.

6. Going by the reasoning adopted by the learned Tribunal, it is seen that the Tribunal placed heavy reliance

on Exts.A6 as well as Ext.A8 and A9 scan reports. Evidently the scan reports are dated 30.10.1999 and 3.11.1999. It is clear that loss of vision having been recorded in the wound certificate, the remaining investigation procedures taken alone cannot result in an adverse finding against the appellant. Of course the learned Tribunal has observed that Doctors were not examined. But we are of the view that Ext.A3 and A7 have correctly recorded the loss of vision of left eye of the appellant and there cannot be any quarrel with regard to that also. Therefore it is clear that he has lost vision of left eye and even though there is no disability certificate the learned counsel for the appellant submitted that going by the 2nd schedule of Workmen's Compensation Act the percentage of disability will be 30 and for guidance the same can be adopted.

7. He was aged 32 at the time of accident and was working as a goldsmith. According to the learned counsel for the appellant there will be 100% functional disability going by the profession of the appellant. It is submitted

that he has lost his vision of left eye at the early age of 32 and appropriate compensation will have to be granted towards loss of amenities in life and loss of pleasures in life.

8. Having considered these submissions made at the bar, we are of the view that the disability surely will deny the various pleasures of life to the appellant and will result in loss of enjoyment in life also. According to us, in tune with the 2nd Schedule of the Workmen's Compensation Act the percentage of disability can be assessed as 30.

9. The Tribunal has granted amounts under different heads as shown below:

Head of Claim	Amount awarded in Rs.
Medical expenses	7200
Hospitalisation expenses	500
Transportation expenses	500
Loss of income	4000
Pain and suffering	10000
Loss of amenities	5000
Total	27200

10. Being a goldsmith, we will be justified in accepting the monthly income as Rs.3,000/- and we re-fix

the compensation in the following manner:

Head of Claim	Amount re-fixed by this court in Rs.
Medical expenses	7200
Hospitalisation expenses	500
Transportation expenses	500
Loss of income	3000 x 2 6000
Pain and suffering	10000
Loss of amenities	30000
Permanent disability	3000x12x16x30/100 172800
Total	227000 (Rupees Two lakh twenty seven thousand only)

The enhanced compensation will carry interest at the rate of 9% per annum from the date of petition till realisation. There will be a direction to the Insurance Company to deposit the amount of compensation, less the amount already deposited, before the Tribunal within a period of three months and we permit the claimant to withdraw the amount when the amount is deposited by the Insurance Company.

The appeal is accordingly allowed. There will be no order as to costs in the appeal.

Sd/-

T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-

K.P. JYOTHINDRANATH
JUDGE

shg/