

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

MACA.No. 197 of 2010 ()

**AGAINST THE AWARD IN OP(MV) 623/2003 OF MOTOR ACCIDENT CLAIMS TRIBUNAL
ALAPPUZHA DATED 22-08-2008**

APPELLANT/PETITIONER:

**TONY @ PAUL, S/O. THOMAS, AGED 20 YEARS
KARAKATTU HOUSE, MARARIKULAM NORTH.P.O., CHERTHALA.**

**BY ADVS.SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK**

RESPONDENTS/RESPONDENTS:

- 1. SURENDRAN, S/O. GOPALAN, KALATHIL VELI,
MARUTHORVATTOM.P.O., CHERTHALA.**
- 2. JOB.P.V., S/O. VARGHESE,
PANDIVALACKAL, THAICKAL.P.O., CHERTHALA.**
- 3. UNITED INDIA INSURANCE CO. LTD.,
CHERTHALA BRANCH.**

**R1-R2 BY ADV. SRI.M.P.MADHAVANKUTTY
R3 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
01-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

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

M.A.C.A. No.197 of 2010

Dated this the 1st day of June, 2015

J U D G M E N T

Ramachandran Nair, J.

The appellant, a minor at the time of accident on 31.12.2003 while riding on a bicycle along Cherthala – Alappuzha coastal road met with a motor accident near St. Augustin's school at Mararikulam. His bicycle was hit by a bus bearing registration No.KL-04/C 205.

2. The claim is for further enhancement of the compensation granted at Rs.36,000/- by the Tribunal.

3. The following are the injuries sustained by the appellant in the accident:

- “1. Contusion of 3 x 7 cm size over the occipital region of scalp.
2. Clinically a depressed fracture of 3 x 3 cm size (L) side of the skull bone.
3. Loss of upper two right central incisor teeth with bleeding from the sockets.”

He was treated as an inpatient for one week. At the time he was a student. The Tribunal found that he was entitled for compensation for loss of classes, for loss of two teeth and

for fracture to right parietal bone. For pain and suffering the Tribunal granted an amount of Rs.12,000/-. In the light of the injury sustained and the period of treatment, we fix an amount of Rs.20,000/-. We also enhance the amount awarded for transportation, extra nourishment and bystander's expenses at Rs.1,000/- each for all these three heads. For loss of two upper incisors the Tribunal has granted an amount of Rs.6,000/- in total (Rs.3000/- per tooth), which we enhance to Rs.10,000/-.

Accordingly, we re-fix the compensation as follows:

Head of claim	Amount awarded by the Tribunal	Amount re-fixed by this Court Rs.
Transportation	500	1000
Damage to clothing	250	250
Extra nourishment	500	1000
Bystander's expenses	500	1000
Treatment expenses	750	750
Losses of classes	1500	1500
Pain and suffering	12000	20000
Loss of amenities in life and enjoyment	8000	8000
For loss of 2 upper incisors	6000 (Rs.3000/- per tooth)	10000 (Rs.5000/- per tooth)

Head of claim	Amount awarded by the Tribunal	Amount re-fixed by this Court Rs.
Provision for future fixation of permanent indenture	6000	6000
Total	36000	49500 (Rupees forty nine thousand five hundred 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/