

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 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

MACA.No. 1864 of 2013 ()

**(AGAINST THE AWARD INOPMV 480/2010 of MOTOR ACCIDENT CLAIMS
TRIBUNAL , PALA, DATED 27-03-2013)**

APPELLANT /PETITIONER:

**SANDHYA,
D/O.MATHEW, MANAYATTIL HOUSE, MUKKALKUNNU BHAGOM
KATTAMPAK(PO), KURUVILANGAD(VIA), KOTTAYAM DISTRICT.**

**BY ADVS.SRI.THOMAS ABRAHAM (NILACKAPPILLIL)
SRI.K.B.ARUNKUMAR**

RESPONDENT /3RD RESPONDENT:

**THE MANAGER,
ORIENTAL INSURANCE COMPANY LIMITED, KOTTAYAM
PIN-688001.**

**R1 BY ADV. SRI.M.JACOB MURICKAN
R BY SRI.GEORGE CHERIAN (THIRUVALLA)**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

SMM

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

.....
M.A.C.A. No. 1864 of 2013
.....

Dated this the 25th day of March, 2015.

J U D G M E N T

P.V.Asha, J.

The appellant is the injured in a motor vehicle accident which occurred on 11-02-2010. While she was walking along the side of a road, a mini lorry hit her down and she sustained injuries. She was initially taken to a nearby hospital and from there, shifted to Medical College Hospital. She sustained the following injuries in the accident.

- 1) Blunt abdominal trauma.
- 2) Grade III splenic injury
- 3) Fracture both bones left forearm.
- 4) Pain lower jaw and upper jaw.
- 5) Mobility of 2nd and 3rd upper incisor tooth.

- 6) Abd pain mainly in (2) hypochondrum.
- 7) Chest bill air entry.
- 8) Chest contusion and abrasion
- 9) Pain and tenderness all over the body.

2. She underwent in-patient treatment for 19 days and incurred disability which was assessed as 6%.

The Tribunal awarded compensation of Rs.69,600/- as against the claim for Rs.4 lakhs.

3. This appeal is filed seeking enhancement of compensation. We heard the learned Counsel appearing on either side. It is pointed out that the multiplier adopted in the case is not correct.

4. The appellant is a housewife. Tribunal has reckoned her income as Rs. 2500/- and awarded loss of earnings for 5 months. It is seen that that the appellant was 21 years at the time of accident. Disability assessed is 6%. Adopting the the proper multiplier of 18, the compensation under the head of permanent disability will come to Rs. 32,400/-($2500 \times 12 \times 18 \times 6 / 100$). The Tribunal has not awarded any amount of compensation under the head of loss of amenities. On account of the injury sustained as well disability incurred by her, she has

become incapacitated to enjoy all the normal amenities of life as she was able to enjoy before the accident. Therefore, we award a sum of Rs.10,000/- towards the loss of amenities. The bystander expenses of Rs.3800/- granted by the Tribunal @ Rs. 200/- per day is enhanced to Rs. 4750/-, @ Rs.250/- for 19 days. No other modification is found necessary. Accordingly the award passed by the Tribunal is modified accordingly as follows:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal</i>	<i>Amount modified</i>
Loss of earnings	12500	12500
Transport to hospital	1000	1000
Extra-nourishment	500	500
Damages to clothing	500	500
Medical expenses	700	700
Bystander expenses	3800(200x19)	4750(250x19)
Pain and suffering	20000	20000
Disability	30600	32400 (2500x12x18x6/100)
Loss of amenities	Not entitled	10000
total	69600/-	81850/
		rounded off to Rs.82000/-

(Rupees eighty two thousand only)

4. Accordingly, the total compensation will come to Rs.82,000/- and the same will carry interest at the rate of 9% per annum from the date of petition. 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 from the date of receipt of a copy of the judgment.

The appeal is allowed as above. The parties shall bear their respective costs.

T.R.RAMACHANDRAN NAIR
JUDGE

P.V. ASHA
JUDGE

smm

