

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 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

MACA.No. 254 of 2010 ()

**AGAINST THE AWARD IN OP(MV) 239/2003 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,
THALASSERY DATED 25-07-2009
APPELLANT/PETITIONER IN OP(MV) 239/2003:**

**K.DINESHAN ALIAS KAKKADAN DINESHAN
S/O.KARUNAKARAN, 47 YEARS, FLOWER AND
BOUQUET VENDOR, MEETHALEKUNNATH HOUSE, ATHIRAKAM
MUNDAYAD P.O., KANNUR.**

**BY ADVS.SRI.K.C.SANTHOSHKUMAR
SMT.K.K.CHANDRALEKHA
SRI.GOPAKUMAR G. (ALUVA)**

RESPONDENT/RESPONDENT NO.2 IN OP(MV) 239/2003:

**UNITED INDIA INSURANCE CO.LTD.
DIVISIONAL OFFICE, PB NO.52, FORT ROAD
KANNUR.**

**BY ADV. SRI.P.V.JYOTHIPRASAD(B/O,NO MEMO)
BY ADV. SRI.P.V.JYOTHI PRASAD, SC.**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 22-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

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

M.A.C.A. No.254 of 2010

Dated this the 22nd day of June, 2015

J U D G M E N T

K.P. Jyothindranath, J.

This appeal is preferred by the claimant in O.P.(M.V.) No.239/2003 on the file of the Motor Accidents Claims Tribunal, Thalassery.

2. The case of the appellant is that on 4.2.2002 at about 6 a.m. while he was proceeding as a pillion rider in a scooter bearing registration No.KLS-2305 an ambassador car bearing registration No.KL/13-B-1191 hit against the scooter. The appellant sustained grievous injuries in that accident.

3. The appellant herein preferred the claim petition before the Tribunal alleging negligence on the driver of the car and claimed a total compensation of Rs.3,78,500/-. After considering the materials before the Tribunal, the Tribunal awarded a sum of Rs.1,54,750/- as compensation. Aggrieved by the same, alleging that the quantum of

compensation awarded is inadequate, this appeal preferred.

4. When the appeal came up for hearing, learned counsel for the appellant submitted before us that the claimant was a flower merchant who was earning more than Rs.6,000/-. It is also the submission that Ext.A8 licence would show that the appellant was a flower merchant and further submitted that the Tribunal only took a sum of Rs.2,500/- as his monthly income. It is also the submission that the appellant sustained partial amputation of the finger as well as fracture injury of tibia and fibula. It is also the submission that there was crush injury on the right leg. He was treated as inpatient for a period from 4.2.2002 to 12.2.2002 (for 8 days) and thereafter again admitted on 2.6.2006 for removal of internal nail fixture. The case of the appellant is that the injuries adversely affected his business.

5. Considering the materials before us and the submissions of the learned counsels, the compensation awarded is reassessed by taking a monthly income of Rs.4,000/- for calculation of loss of income due to disability.

It is also seen that no amount is awarded towards loss of amenities and for loss of earnings immediately after the accident. Thus the amount of compensation awarded is re-fixed as follows:

Head of claim	Amount awarded in Rs.
Bystander's expenses	150 x10 1500
Compensation towards permanent disability	4000x12x15x12/100 86400
Medical bills	75750
Pain and sufferings	35000
Extra nourishment	5000
Transportation expenses	5000
Review treatment	2000
Loss of amenities	20000
Loss of earning	4000x4 16000
Total	2,46,650 (Rupees two lakhs forty six thousand six hundred and fifty only)

The enhanced compensation will carry interest at the rate of 9% 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

//True copy//

P.A. TO JUDGE

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