

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 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

MACA.No. 908 of 2014 ()

AGAINST THE AWARD IN OPMV 92/2010 of MACT PALA

APPELLANT/PETITIONER:

MINI , W/O.MOHANAN AGED 43 YEARS
NIDHIN NIVAS HOUSE, MAANOLI BHAGOM
PANAMATTOM KARA ELANGULAM VILLAGE

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)

RESPONDENTS/2ND AND 3RD RESPONDENTS:

1. THE MANAGING DIRECTOR
K.S.R.T.C, THIRUVANANTHAPURAM 6595001

2. THE NEW INDIA ASSURANCE CO.LTD.
REPRESENTED BY ITS DIVISIONAL MANAGER, KOTTAYAM.
686101

R2 BY ADV. SRI.M.RAJAGOPALAN

R2 BY ADV. SRI.RAJIT

R1 BY SRI.SREEPRAKASH K.NAIR, SC, KSRTC

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A.No.908 OF 2014

Dated this the 4th day of March, 2015

JUDGMENT

Asha, J.

Appellant is the injured in a motor vehicle accident which occurred on 9.3.2009 while the bus in which she was travelling was hit by a van. She sustained severe injuries and was immediately taken to the hospital. She underwent inpatient treatment for a period of 7 days in Taluk Hospital and thereafter she underwent treatment in Karuna Ayurvedic Hospital for a period of 9 days from 11.10.2009 to 19.10.2009. In the wound certificate Ext.A6, the injury noted is pain around neck. As per Ext.A5 treatment certificate, she sustained crack fracture CV 5 body. Cervical collar was advised. She was treated in Karuna Ayurvedic Hospital and Inter Vertebral Disc Prolapse Clinic, Pala.

2. The claim petition was filed seeking compensation to the tune of ₹ 2 lakhs. The Tribunal awarded a sum of ₹76,250/- as

compensation. This appeal is filed aggrieved by the inadequacy in compensation.

3. We heard the learned counsel appearing for the Insurance company who opposed the claim for enhancement.

4. The appellant was working as a Junior Public Health Nurse of Elappara Primary Health Centre and she had to avail half pay leave for 41 days. The Tribunal even though granted ₹10,987/- towards loss of income for 41 days, reckoned her monthly income @ ₹5,000/- for the purpose of assessing compensation towards permanent disability. The permanent disability was assessed as 5%. But we find that the method adopted is not correct. Going by Ext.A16 salary certificate, the salary of the appellant was ₹16,481/-. It is stated that she was aged 43 at the time of the accident. Then applying the multiplier of 14, the compensation under the head of permanent disability will come to ₹1,38,440/- (16481 x 12 x 14 x 5%). Since there is no disability certificate, we reduce the amount by 50% which will come to ₹69,220/-.

5. The Tribunal has awarded a sum of ₹1,400/- alone towards

bystander expenses for 7 days. The accident is of the year 2009. It is seen that the appellant was admitted in the hospital for a period of 16 days ie. 7 days in Taluk Hospital and 9 days in Ayurvedic Hospital. Therefore, we enhance the same @ ₹250/- per day for 16 days and the appellant will be entitled to a sum of ₹4,000/- under the head of bystander expenses. The Tribunal has awarded a sum of ₹ 15,000/- alone towards pain and suffering. Having regard to the nature of the injuries, the treatment undergone by her and the discomfort and inconvenience she would have suffered, we enhance the same to ₹30,000/-. The Tribunal has not awarded any amount towards damage to clothing. We award a sum of ₹500/- under the said head.

6. Therefore the award of the Tribunal is modified as follows :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Loss of earnings	10987
Transport to hospital	2000
Extra nourishment	1000
Damage to clothing	500
Treatment expenses	8750

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Bystander expenses	4000
Pain and suffering	30000
Permanent disability	69220
Loss of amenities	10000
Total	136457 Rounded off to ₹1,36,450/- (Rupees one lakh thirty six thousand four hundred fifty only)

7. The enhanced compensation will carry interest @ 9% per annum from the date of petition. The Insurance Company shall deposit the 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 accordingly allowed.

T.R.RAMACHANDRAN NAIR, JUDGE

SV.

P.V.ASHA, JUDGE