

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

MACA.No. 775 of 2009 ()

AGAINST THE AWARD IN OPMV 1720/2001 of M.A.C.T., PALAKKAD

APPELLANT/PETITIONER:

MOHAN KUMAR S/O. MADHAVAN NAIR,
RESIDING AT KUMARAMANGALAM HOUSE
P.O.KIZHAKKUMCHERRY, PALAKKAD.

BY ADVS.SRI.V.CHITAMBARESH (SR.)
SRI.T.C.SURESH MENON
SRI.JIBU P THOMAS
SRI.P.S.APPU
SRI.A.R.NIMOD
SRI.C.A.ANOOP

RESPONDENTS/RESPONDENTS:

1. M.P.JOHNY,
RESIDING AT MATTATHIL HOUSE, POTTENKAD, BAISONVALLY
PALAKKAD.

2. K.B.SHIVADAS S/O. K.K.BALAKRISHNAN,
RESIDING AT KOLLAMPARAMBIL HOUSE, KORANCHIRA POST
PALAKKAD. (DELETED)

3. THE ORIENTAL INSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE, T.H.TOWERS, MARKET ROAD
MUVATTUPUZHA.

* RESPONDENT NO.2 IS DELETED FROM THE PARTY ARRAY AT THE RISK OF
THE APPELLANT VIDE ORDER DATED 6.11.2013 IN I.A.NO.2871/2013

R3 BY ADV. SRI.VPK.PANICKER

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A.No.775 OF 2009

Dated this the 20th day of February, 2015

JUDGMENT

Ramachandran Nair, J.

The injured claimant is the appellant. The grievance is regarding inadequacy of compensation. What is awarded by the Tribunal is ₹29,670/- under different heads.

2. The learned counsel for the appellant submitted that the accident occurred on 9.30 a.m. on 25.2.2000. While he was riding the motor cycle bearing Reg.No.KL 9H/2550 along the public road, Kizhakkancherry-Kundukkad, it was hit by a jeep bearing Reg.No.KBR 3182 which was coming from the opposite direction and he was injured. He was taken to Aswini Hospital, Thrissur and was treated there till 5/1/2001. According to him, he continued treatment as outpatient also.

3. The main stress of argument is that the Tribunal has not granted any compensation for the disability. The appellant had

sustained fracture tibia right leg. He claimed monthly income @ ₹5,000/- per month as a driver. But there was no evidence before the Tribunal. Herein also, we find that no documentary evidence is there to show that he was a driver. Still the accident being of the year 2000, we reckon the reasonable monthly income as ₹3,000/- instead of ₹2,000/-. 10% is the disability assessed as per the certificate and we find that it is recorded that there is difficulty to squat and there is partial dorsiflexion of ankle by 25% and knee flexion is also limited by 20%. Even though there is no occupational disability, for permanent disability, he will be entitled for a reasonable amount. By adopting the multiplier as 13, he will be entitled to an amount of ₹46,800/- (3000 x 12 x 13 x 10%) towards permanent disability. He will be entitled for an amount of ₹12,000/- for partial loss of earnings and for pain and suffering, we grant an additional sum of ₹5,000/-.

4. Accordingly, the compensation is recomputed as follows :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Transportation	1000
Extra nourishment	500

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Damage to clothing	300
Bystander's expenses	1100
Treatment expenses	3770
Pain and suffering & loss of amenities and enjoyment of life	20000
Partial loss of earnings	12000
Disability	46800
Total	85470 Rounded off to ₹85,500/- (Rupees eighty five thousand five hundred only)

5. 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 awarded 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