

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 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

MACA.No. 820 of 2009 ()

AGAINST THE AWARD IN OPMV 606/2002 of PRINCIPAL M.A.C.T.,KOZHIKODE
DATED 17-10-2007

APPELLANT/PETITIONER IN OP(MV):

GIREESHKUMAR.M.V, S/O.KUNHIRAMAN,
MEETHALE VEETIL HOUSE, P.O.VAKAYAD, KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENT(S):RESPONDENTS

*1. V.UNNEERIKUTTY, S/O.CHATHUKUTTY,
VALAPPIL HOUSE, P.O.MAKKADA, KAKKODI
KOZHIKODE.(DELETED)

2. NATIONAL INSURANCE CO.LTD, DIVISIONAL
OFFICE, NOOR COMPLEX, MAVOOR ROAD
KOZHIKODE.

*3. V.P.GOPALAN,S/O.KANARAN, VALIPADINHATH
HOUSE, P.O.CHELANNUR, KOZHICKODE.(DELETED)

4. ORIENTAL INSURANCE CO.LTD.,
JASEELA COMPLEX, NILAMBUR ROAD, MANJERI.

(R1 AND R3 ARE DELETED FROM THE PARTY ARRAY AT THE RISK OF THE
APPELLANT VIDE ORDER DT.17.3.15 IN I.A.982/2015)

R,R2 BY ADV. SRI.MATHEWS JACOB (SR.)

R,R4 BY ADV. SRI.VPK.PANICKER

R,R2 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 27-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A No.820 of 2009

Dated this the 27th day of March, 2015

JUDGMENT

Ramachandran Nair, J.

The appeal is filed by the claimant who was injured in an accident. He was aged 29 years at the time of the accident. The injuries described in para.2 of the appeal memorandum are the following:

(1) L.W.Scalp 4X0.5X0.5 mm ® frontal Region, (2) multiple injuries all over the body (3) multiple depressed comminute fracture involving all the walls of ® maxilla affective at anterior and medical walls of (2) maxilla. (4) Fracture nasal bone (5) fracture lateral aspect of ® supra orbital ridge and lateral wall of ® orbit both ethmoid and maxillary sinus.”

2. The accident occurred on 22.09.2001 while the appellant was travelling in a jeep from Medical College to Vakayad which was hit by a bus and he sustained severe injuries. Immediately he was taken to the Medical College Hospital, Kozhikode and inpatient treatment was undertaken.

3. The Tribunal has granted a total amount of Rs.13,038/- as compensation.

4. Before us the learned counsel for the appellant submitted that the Tribunal has not assessed the compensation properly - by considering the nature of injuries, the period of treatment and other factors. The learned Senior Counsel for the Insurance Company submitted that the Tribunal has observed that the appellant had not appeared before the Medical Board for assessing the disability.

5. What was produced before the Tribunal is Ext.A1 series of medical prescriptions and bills. The learned counsel for the appellant explained that the injuries include fracture of walls of ® maxilla affective at anterior and medical walls and nasal bone. Therefore it can be easily presumed that he would not have been able to do work for a couple of months. It is stated that he was a Cinema Operator.

6. The compensation assessed by the Tribunal under various heads is given below:

<i>Sl.No.</i>	<i>Head of claim</i>	<i>Amt.awarded</i>
1	Medical bills	Rs. 1,538.00

<i>Sl.No.</i>	<i>Head of claim</i>	<i>Amt.awarded</i>
2	Pain and suffering	Rs. 6,500.00
3	Loss of amenity	Rs. 3,500.00
4	Loss of notional income (temporary)	Rs. 1,000.00
5	Transportation	Rs. 500.00
	TOTAL	Rs. 13,038.00

After considering various aspects, we find that towards pain and suffering Rs.15,000/- can be granted considering the nature of injuries and that he would have been under treatment at least for a period of one month. For transportation, the Tribunal has granted only Rs.500/-, which we enhance to Rs.2,000/-. The other item which the learned counsel for the appellant pressed for enhancement is loss of notional income which was fixed by the Tribunal at only Rs.1,000/- which we fix at Rs.4,000/-. Accordingly the compensation is recomputed as follows:

<i>Sl.No.</i>	<i>Head of claim</i>	<i>Amt.awarded</i>
1	Medical bills	Rs. 1,538.00
2	Pain and suffering	Rs. 15,000.00
3	Loss of amenity	Rs. 3,500.00
4	Loss of notional income (temporary)	Rs. 4,000.00
5	Transportation	Rs. 2,000.00

<i>Sl.No.</i>	<i>Head of claim</i>	<i>Amt.awarded</i>
	TOTAL	Rs. 26,038.00 round off to Rs. 26,040.00

(Rupees Twenty six thousand and forty only)

Accordingly the appellant is entitled to a total compensation of Rs.26,040/- (Rupees Twenty six thousand and forty only) and the amount will carry interest @9% per annum from the date of petition. There will be a direction to the Insurance Company to deposit the amount (less the amount if any already paid) within three months from the date of receipt of a copy of this judgment and on such deposit being made, the claimant can withdraw the amount.

The appeal is allowed accordingly. The parties will bear their respective costs in this appeal.

Sd/-
T.R.RAMACHANDRAN NAIR
Judge

Sd/-
P.VASHA
Judge

rtr/

/true copy/

P.S to Judge