

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 3RD DAY OF AUGUST 2015/12TH SRAVANA, 1937

MACA.No. 1866 of 2011 ()

**AGAINST THE REVISED AWARD IN OP(MV) 460/1999 OF ADDITIONAL MOTOR
ACCIDENTS CLAIMS TRIBUNAL, THALASSERY DATED 23-12-2010
APPELLANT/PETITIONER:**

**R.P. RAMESHAN NAMBOODIRI
S/O PURUSHOTHAMAN NAMBOODIRI, AGED 46 YEARS
PARALLEL COLLEGE LECTURER
RESIDING AT KUNNIRIKA AKATHUTT ILLAM, P.O, PATHIRIYAD
(VIA), PINARAYI, KANNUR.**

BY ADV. SRI.GRASHIOUS KURIAKOSE (SR.)

RESPONDENTS/RESPONDENTS NO. 1 TO 4:

- 1. V.P. MOHANAN
S/O GOPALAN NAIR
DRIVER BY PROFESSION VADAKKE PRAMBATH VEEDU
THRIPPANGOTTUR AMSOM, CHETTAKANDY
KANNUR DISTRICT (DRIVER OF BUS KRC 8559) PIN- 670 101.**
- 2. P.C.UMESH,
S/O KUNHIRAMAN, MEETHALE KOMATH ERANHOLI
THALASSERY.(RC OWNER OF BUS KRC 8559) PIN- 670 101.**
- 3. UNITED INDIA INSURANCE COMPANY LTD.
THALASSERY (INSURER) PIN- 670101.**
- 4. M.V.PAVITHRAN,
S/O T. KRISHNAN NAIR, SREEPA NIVAS SANKARANELLUR P.O
KANNUR DISTRICT. PIN- 670 648.**

**R3 BY ADV. SMT.P.K.SANTHAMMA
R BY SRI.JOHN JOSEPH VETTIKAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
03-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

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

M.A.C.A.No.1866 of 2011

Dated this the 3rd day of August, 2015

J U D G M E N T

Ramachandran Nair, J.

The claimant has come up in appeal, aggrieved by the inadequacy of the compensation.

2. Initially the claim petition was dismissed and in an appeal filed as M.A.C.A.No.671/2004 the matter was remanded back and thereafter the Tribunal has passed an award granting compensation of Rs.24,300/- with 7.5% interest. The total amount claimed is Rs.1,25,000/-.

3. The appellant was working as a parallel college teacher at the time of accident and is claiming Rs.5,000/- as his monthly salary. The accident occurred on 22.10.1998 at 8 a.m. while he was walking towards New Bus Stand, Thalassery. He was hit by a bus bearing registration No.KRC 8559.

4. He was admitted in the Thalassery Co-operative

Hospital as inpatient and thereafter was referred to the Medical College Hospital, Kozhikode for better treatment. He was aged 34 at the time of the accident.

5. We heard Sri. Grashious Kuriakose learned Senior Counsel for the appellant and learned Counsel Smt. P.K. Santhamma for the Insurance Company.

6. The Tribunal has referred to various documents in paragraph 12 of the award. It is seen that he sustained fracture on right clavicle, contusion 2 c.m. x 1 c.m. on the right side of forehead, fracture of eight ethmoid bone, and extradural hematoma in right middle cranial fossa. The total period of inpatient treatment was 8 days. The Tribunal has granted Rs.12,000/- for pain and sufferings, Rs.3,000/- towards medical expenses, Rs.800/- towards bystander's expenses and Rs.8,000/- towards loss of earnings.

7. Learned counsel for the appellant submitted that the monthly income taken as Rs.2,000/- is too low and the amount granted towards pain and sufferings is also not commensurate with the period of treatment and the injuries sustained.

8. After having heard learned counsel on both sides, we fix the monthly income at Rs.3,000/- for the purpose of assessing the compensation. Therefore the appellant is entitled to Rs.12,000/- towards loss of earnings. For pain and sufferings, we fix an amount of Rs.30,000/-, in view of the fact that he was treated for 8 days in the hospital as inpatient and serious injuries have been caused. He has not sustained any disability and no disability certificate has been produced also. For extra nourishment no amount has been granted by the Tribunal and we grant an amount of Rs.1,000/-. We also grant an amount of Rs.5,000/- towards loss of amenities.

9. Accordingly, we re-fix the compensation in the following manner:

Head of claim	Amount awarded in Rs.
Loss of earnings	3000x4 12000
Transport to hospital	1000
Extra nourishment	1000
Others:	
Medical expenses	3000
Bystander's expenses	800

Head of claim	Amount awarded in Rs.
Pain and sufferings	30000
Loss of amenities etc.	5000
Total	52800 (Rupees fifty two thousand eight hundred only)

The enhanced compensation will carry interest at the rate of 9% per annum from the date of petition till realisation.

There will be a direction to the Insurance Company to deposit the amount of compensation with interest, less the amount already deposited, before the Tribunal within a period of three months. On such deposit being made, the appellant will be entitled for the release of the amount.

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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