

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

MACA.No. 987 of 2009 ()

AGAINST THE AWARD IN OPMV 1919/2005 of PRINCIPAL M.A.C.T., KOZHIKODE
DATED 09-07-2008

APPELLANT/PETITIONER:

JOBINS, S/O. JOSEPH, KARUNATHI HOUSE,
MUNDOOR P.O, KODENCHERRY VIA, KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS/RESPONDENTS:

1. A.ABDUL NAZER, S/O.AHAMMEDKUTTY,
AMBRA JOSNA MANZIL, P.O OMASERRY, KOZHIKODE.

2. ORIENTAL INSURANCE CO.LTD,
DIVISIONAL OFFICE, SEEMA BUILDING, G.H ROAD
KOZHIKODE.

R2 BY ADV. SMT.K.S.SANTHI (BY ORDER)

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

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

M.A.C.A.No.987 OF 2009

Dated this the 3rd day of March, 2015

JUDGMENT

Asha, J.

Appellant is the injured in a motor vehicle accident which occurred on 25.02.2005, on being hit down by a bus, when he was pillion riding on a motor cycle. He sustained closed segmental fracture to left tibia. Immediately after the accident, he was taken to Medical College Hospital, where he underwent inpatient treatment for a period of 12 days. Thereafter, he was admitted in MIMS Hospital, where he underwent treatment for a period of six days.

2. The claim petition was filed seeking compensation to the tune of Rs.2 lakhs. The Tribunal awarded a sum of Rs.19,750/-. This appeal is filed seeking enhancement in compensation. One of the grounds raised is that the medical expenses incurred by the appellant were not awarded in full despite production of bills for the same.

3. We heard the learned counsel appearing for the appellant as

well as the Insurance Company.

4. The Tribunal rejected the entire claim towards medical expenses observing that the appellant has opted luxurious hospital in the city and therefore standard amount for treatment alone was granted. The bills pertain to a sum of Rs.25,913/-. The Tribunal awarded Rs.8,000/- alone towards medical treatment. We find no reason to deduct any amount out of the bills, which cover Rs.25,913/-. Therefore, the compensation awarded towards medical expenses is enhanced to Rs.25,913/-.

5. The learned counsel for the appellant submits that the amounts awarded towards pain and suffering as well as under all other heads are inadequate. The Tribunal has reckoned the notional income of the appellant, who was aged 19 years at the time of the accident as Rs.3,000/-, which we find reasonable. Since the fracture was only on his left arm, we are of the view that the amount awarded towards loss of earnings namely Rs.3,000/- is reasonable. At the same time, the Tribunal has awarded only Rs.12,000/- towards pain and suffering. Having regard to the fact that the appellant was under inpatient

treatment in two hospitals for a period of 18 days and he had to keep away from work atleast for a period of one month, we enhance the amount to Rs.30,000/- towards pain and suffering. Similarly, towards incidental charges, the Tribunal has awarded Rs.2,500/-. Since the appellant was under inpatient treatment for a period of 18 days, we award a sum of Rs.3,600/- towards incidental charges.

6. The award passed by the Tribunal is accordingly modified as follows :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Medical treatment	25913
Incidental charges	3600
Pain and suffering	30000
Loss of amenities	1500
Notional income	3000
Transportation	750
Total	64763
	Rounded off to ₹64,770/- (Rupees sixty four thousand seven hundred seventy only)

7. The enhanced amount 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

P.V.ASHA, JUDGE

SV.