

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH**

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

MACA.No. 686 of 2010 ()

**AGAINST THE AWARD IN OP(MV) 970/2006 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,
MANJERI DATED 01-03-2010**

APPELLANT/PETITIONER:

**AHAMMED ANAS NOUSHAD ALIAS ANAS,
S/O.ABDUL KAREEM, MAZHUVANCHERI ACHARIKUZH HOUSE
OLAVATTOOR, PULIKKAL, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR
SRI.K.RAKESH**

RESPONDENTS/RESPONDENTS:

- 1. SAINUDHEEN.N,S/O.MOHAMMED,NEMMINI
PARAMBAN, PUTHIYEDATH, OLAVATTOOR.P.O
MALAPPURAM DISTRICT. [DELETED]**

**[RESPONDENT NO.1 IS DELETED FROM THE PARTY ARRAY AS PER ORDER
DATED 10.06.2015 IN MACA.No. 686 of 2010]**

- 2. ABDUL AZEEZ,KAKKOOOTH PURATH HOUSE,
OLAVATTOOR.P.O, PULIKKAL, MALAPPURAM DISTRICT.**
- 3. THE ORIENTAL INSURANCE COMPANY LTD,
BRANCH OFFICE, JASEELA COMPLEX, MANJERI
MALAPPURAM DISTRICT.**

R3 BY ADV. SRI.VPK.PANICKER

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

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

M.A.C.A.No.686 of 2010

Dated this the 16th day of June, 2015

J U D G M E N T

Ramachandran Nair, J.

The injured claimant before the Tribunal is the appellant. The accident occurred on 20.2.2006 at about 4.30 p.m., while he was riding a motorcycle bearing registration No.KL 10/V 3793 from Vettikkad to Puthiyedath Paramba and the said motorcycle was hit by an auto rickshaw bearing registration No.KL 5 N 8683.

2. The injuries sustained by the appellant are mainly to the teeth and going by the wound certificate he had sustained DA fracture teeth, crown fracture teeth, avulsed teeth, intruded teeth, Grade III mobile teeth, Grade II mobile teeth. He was hospitalized for four days.

3. Learned counsel for the appellant submitted that the Tribunal has granted a total amount of Rs.54,932/- alone as against the claim of Rs.1,75,000/-. It is submitted that

the amount awarded towards pain and suffering, loss of income, disfiguration and other items are too low. It is also submitted that he was an Accountant and the monthly income was claimed at the rate of Rs.6,000/- per month. But the Tribunal has adopted it only at the rate of Rs.2,500/- per month.

4. We heard the learned counsel for the Insurance Company, who submitted that loss of teeth alone will be the result of the injury sustained and adequate compensation has been granted for that. Ext.A3 is the case records produced by the appellant. We have gone through the details. It is clear from the same that he was subjected to tooth extraction and we also find that for related problem and pain he was under continuous treatment for various periods. The last date of the entry made in the document is 8.9.2006. Of course the appellant was continuing his treatment for several months.

5. Since he was working as an Accountant we fix the monthly income as Rs.4,500/-. No disability as such has

been proved by producing any disability certificate. Therefore, we find it proper only to enhance the amount awarded under three heads ie. pain and suffering, disfiguration, and for loss of income for four months. We therefore re-fix the compensation in the following manner:

Head of Claim	Amount re-fixed in Rs.
Transport to the hospital	500
Extra nourishment and bystanders expenses	400
Damage to clothing	250
For reviews (24 times)	2400
For pain and suffering	25000
For 16 teeth extraction	32000
For medical bills	2382
For loss of income for 4 months @ Rs.4500/- per month	18000
For disfiguration	10000
Total	90932
	(Rounded off to Rs.90,900/-)
	(Rupees Ninety thousand nine 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, less the amount already deposited, before the Tribunal within a period of three months and we permit the claimant to withdraw the amount when the amount is deposited by the Insurance Company.

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

shg/