

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

MACA.No. 1165 of 2009 ()

AGAINST THE AWARD IN OPMV 841/2004 of M.A.C.T.,KOZHIKODE DATED
23-09-2008

APPELLANT/PETITIONER:

V.C.VINU,AGED 19 YEARS,S/O.V.C.GEORGE
PARAKKAL THAZHE, P.O.EDAKKULAM, POYILKAVU P.O.
KOZHIKODE DISTRICT.

BY ADV. SRI.JACOB ABRAHAM

RESPONDENTS/RESPONDENTS:

1. GEORGE MATHEW, MADATHIL KADAVU HOUSE,
MOOTHEDAN, EDAKKARA, MALAPPURAM DISTRICT.

2. THE DIVISIONAL MANAGER, THE UNITED
INDIA INSURANCE CO.LTD. DIVISIONAL OFFICE
KALLAI ROAD, KOZHIKODE.

R2 BY ADV. SRI.N.S.MOHAMMED USMAN
R1 BY ADV. SRI.VINOD SINGH CHERIYAN
R1 BY ADV. SRI.R.SUDHISH
R1 BY ADV. SMT.M.MANJU

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 22-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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

M.A.C.A.No.1165 OF 2009

Dated this the 22nd day of January, 2015

JUDGMENT

Ramachandran Nair, J.

The appellant injured is seeking enhancement of the total compensation, which was granted at Rs.8,000/-. He was aged 14 at the time of the accident. The accident occurred on 8.3.2004 when he was riding his motor cycle from Poyilkavu bazar to his house and he was hit by a car bearing Reg.No.KL 11 B/0011.

2. The appellant was treated in the MIMS Hospital, Kozhikode. He has sustained undisplaced fracture distal tibia right and was treated as an inpatient from 8.3.2004 to 12.03.2004. The appellant underwent above knee ARTI cast application on the right lower limb and he was directed to attend review after two weeks.

3. The Tribunal granted Rs.1,000/- towards medical expenses, Rs. 5,00/- towards incidental charges, Rs.2,000/- for pain and suffering, Rs.4,000/- for loss of amenity and Rs.500/- for transportation.

4. The learned counsel for the appellant submitted that the amount awarded is too low. It is submitted that for medical treatment and incidental charges lot of expenses were there and by an over sight the bills were misplaced. Considering that he was treated as an inpatient and had been in ARTI cast, this Court may grant reasonable amount, it is submitted. It is also submitted that the amount awarded towards pain and suffering is too low.

5. We heard the learned counsel for the Insurance Company who supported the award of compensation.

6. Evidently, the appellant had sustained fracture and the Tribunal has considered the wound certificate Ext.A2. In the light of all these aspects, we find that the amounts awarded towards pain and suffering and medical expenses require appropriate modification. We grant an amount of Rs.20,000/- for pain and suffering. Considering the period of treatment and the treatment procedures undertaken, we find that it will be reasonable to award Rs.15,000/- for medical expenses and other incidental charges. Therefore the total compensation will be as follows :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Medical expenses & incidental charges	15000
Pain and suffering	20000
Loss of amenity	4000
Transportation	500
Total	39500/- (Rupees thirty nine thousand five hundred only)

7. The 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.