

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 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

MACA.No. 2163 of 2011 ()

AGAINST THE AWARD IN OPMV 1180/2003 of M.A.C.T., THALASSERY
DATED 30-04-2010

APPELLANT/PETITIONER:

P.P.NARAYANAN, AGED 58 YEARS
S/O.LATE T.KORAN, KULAPPURAM EAST,
P.O.VILAYAMCODE
KANNUR DISTRICT.

BY ADV. SRI.M.V.AMARESAN

RESPONDENT/RESPONDENT NO.3:

THE ORIENTAL INSURANCE COMPANY LTD
PLAZA, BALMATTA ROAD, MANGALORE
PIN-575002.

R1 BY ADV. SRI.M.JACOB MURICKAN
R BY SRI.GEORGE CHERIAN (THIRUVALLA)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 06-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A No.2163 of 2011

Dated this the 6th day of February, 2015

JUDGMENT

Asha, J.

The appellant sustained injuries in a motor vehicle accident which occurred on 05.07.2003. The claim petition was filed before the Tribunal under Section 163A of the Motor Vehicles Act, seeking compensation to the tune of Rs.2 lakhs. The Tribunal awarded a sum of Rs.65,250/- along with interest @ 7.5% per annum.

2. This appeal is filed seeking enhancement of compensation saying that the amount awarded under various heads, especially the income reckoned, are thoroughly inadequate.

3. We heard the learned counsel appearing on either sides. The learned counsel appearing for the Insurance Company opposed the claim for enhancement contending that the Tribunal has granted fair and reasonable award under all heads of compensation. It is also argued that the injury sustained

by the appellant is not a scheduled injury.

4. It is seen that the appellant was working as a Weaver. Claim before the Tribunal was that he was earning a sum of Rs.4,500/- per mensem. The Tribunal has reckoned the income @ Rs.2,500/- and assessed the compensation towards disability at Rs.49,500/-. The injuries sustained are show as 'fracture on greater mochester left, loss of two incisor on the upper and lower region'.

5. The Medical Board of the Medical College Hospital, Pariyaram assessed his disability as 26%. The Tribunal reckoned the whole body disability as 15% for the purpose of assessing compensation towards disability. Having regard to the wages admissible to a weaver at the relevant time, we fix the income of the appellant @ Rs.3,000/-. The annual income will come to Rs.36,000/-. Applying the multiplier of 11, the disability compensation will come to $\text{Rs.}3000 \times 12 \times 15 / 100 \times 11 = \text{Rs.}59,400.00$. Similarly under the head loss of earnings, a sum of Rs.5,000/- has been awarded for a period of two months. Reckoning the income @ Rs.3000/-, we award a sum of Rs.9,000/-, for a period of 3 months, in view of the fact that the injuries sustained would have disabled him to

undertake the work of weaving at least for a period of 3 months. Since the application is filed under Section 163A of the Motor Vehicles Act, no other modification is possible.

6. Accordingly we modify the award as follows:

<i>Sl.No.</i>	<i>Head of claim</i>	<i>Amt.</i>
1	Loss of earning (total)	Rs. 9,000.00
2	Medical and miscellaneous expenses	Rs. 5,750.00
3	Pain and suffering	Rs. 5,000.00
4	Disability income (3000X12X15/100X11)	Rs. 59,400.00
	TOTAL	Rs. 79,150.00

(Rupees Seventy nine thousand one hundred and fifty only)

7. The appellant will be entitled to a total compensation of Rs.79,150/- (Rupees Seventy nine thousand one hundred and fifty only). The enhanced amount will carry interest @9% per annum from the date of petition. The respondent is given 3 months' time to deposit the amount.

In view of the order dated 23.12.2011 while condoning the delay in filing the appeal that the Insurance Company is exonerated from paying interest for the period covered by the delay of 493 days, the appellant will not be entitled for interest

for that period.

The appeal is allowed to the above extent. No costs.

Sd/-

T.R.RAMACHANDRAN NAIR

Judge

Sd/-

P.VASHA

Judge

rtr/

/true copy/

P.S to Judge