

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

MACA.No. 1384 of 2009 ()

AGAINST THE AWARD IN OPMV 3743/2002 of M.A.C.T., KOZHIKODE
DATED 23-07-2007

APPELLANT(S)/PETITIONER:

K.SUHARABI, W/O.ALIKOYA, AGED 49 YEARS,
VAGERI HOUSE, PANNIYANKARA, P.O.KALLAI
KOZHIKODE.

BY ADV. SMT.BINDU GEORGE

RESPONDENT(S)/RESPONDENTS:

1. N.BEEKUTTY, W/O.MUHAMMED,
MANAKKATTUNILAM PARAMBA, HOUSE NO.21/2594
PANNIYANKARA AMSOM, DESOM, P.O.KALLAI
KOZHIKODE.

2. K.V.ABDUL RAHIMAN, S/O.BEERANKOYA,
KACHERIKKANDI PARAMBA, P.O.NALLALAM, KOZHIKODE.

3. UNITED INDIA INSURANCE CO.LTD.,
CITY BRANCH OFFICE, RAMEES ARCADE, CHEROOTTY ROAD
KOZHIKODE.

R,R1 BY ADV. SRI.DEVAPRASANTH.P.J.

R,R3 BY ADV. SMT.R.REMA

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.1384 of 2009

Dated this the 6th day of April, 2015

JUDGMENT

Asha, J.

The appellant is the injured in a motor vehicle accident which occurred on 7.10.2002. While she was walking along the side of Ramanattukara-Kozhikode Road, she was hit down by an autorickshaw causing serious injuries to her. She sustained fracture of humerus and was taken to the P.V.S. Hospital, Kozhikode. She was hospitalised for one week during which period she underwent a surgery. The claim petition was filed seeking compensation to the tune of Rs.2 Lakhs. The Tribunal awarded a sum of Rs.13,300/-. This appeal is filed seeking enhancement of compensation.

2. We heard learned counsel on both sides.

3. It is seen that the appellant was aged 42 years of age and she underwent a surgery on account of the fracture sustained to her left humerus. Open reduction and plating was done for which she claimed

an amount of Rs.15,245/- as per medical bills. The Tribunal awarded a sum of Rs.3,000/- alone towards medical expenses. The reason for not accepting the entire claim is stated as absence of seal of the hospital concerned in the bills. It is seen that the appellant has undergone a surgery in a private hospital where she undergone inpatient treatment for a period of seven days. Therefore, we award a sum of Rs.7,500/- towards medical expenses in the place of Rs.3,000/- awarded by the Tribunal. Towards incidental charges, the Tribunal has awarded a sum of Rs.700/- alone. As the appellant was hospitalised for seven days, we award a sum of Rs.1,400/- towards bystander's expenses and Rs.500/- towards damage to clothing. A further amount of Rs.500/- is awarded towards extra nourishment also. The Tribunal awarded a sum of Rs.6,000/- alone towards compensation for pain and suffering. Having regard to the nature of injuries and the treatment undergone by her on account of the fracture sustained to the left humerus, we enhance the compensation towards pain and suffering to Rs.25,000/-.

Accordingly, the award passed by the Tribunal is modified as follows:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal</i>	<i>Modified award passed by this Court</i>
Medical Expenses	3000	7500
Incidental charges (bystanders expenses)	700	1400
Pain and suffering	6000	25000
Loss of amenities	1000	1000
Transportation	500	500
Loss of income	2000	2000
Extra nourishment		500
Damage to clothing		500
Total		38400

(Rupees Thirty-eight thousand four hundred only)

The enhanced amount of compensation will carry interest at the rate of 9% per annum from the date of petition till realisation and the insurance company is directed to deposit the entire amount of compensation, less the amount already deposited before the Tribunal, within a period of three months.

The appeal is allowed as above. The parties will suffer their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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