

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

MACA.No. 1498 of 2009 ()

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IN OPMV 2233/2000 of II ADDL. MACT, KOZHIKODE
DATED 30-09-2008
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APPELLANT(S)/PETITIONER IN OP(MV) :

**MANIKANDAN, S/O SANKARAN,
KANNIYAMKODU HOUSE, P.O.
THACHAMGODU, PALAKKAD.**

**BY ADVS.SRI.AVM.SALAHUDIN
SMT.P.Y.SHEHEERA**

RESPONDENT(S)/RESPONDENTS IN OP(MV) :

- 1. SHIJU.C.G., CHAKKUMPEEDIKA HOUSE,
VELLIKKULANGARA, THRISSUR.**
- 2. THIMOTHI, S/O. YOHANNAN, KOLATHOOR
LODGE, ROOM.NO. 8, CHERUVANNOOR
KOZHIKODE. (DELETED)**

**RESPONDENT NO.2 IS DELETED FROM THE PARTY ARRAY, VIDE ORDER
DATED 25.06.2015 IN IA NO.2049/15 IN MACA 1498/09**

- 3. NATIONAL INSURANCE CO. LTD., BRANCH
OFFICE, AMBIKA ARCADE, M.G.ROAD
P.B.NO. 89, THRISSUR.**

R3 BY ADV. SMT.SARAH SALVY

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 03-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

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

M.A.C.A.No.1498 of 2009

Dated this the 3rd day of September, 2015

JUDGMENT

T.R.Ramachandran Nair, J.

This appeal is filed by the claimant who was the appellant in O.P.(MV).No.2233/2000 of the Motor Accident Claims Tribunal, Kozhikode, challenging the award passed by the Tribunal, which according to him is inadequate going by the injuries sustained by him and the disability assessed by the Tribunal to the extend of 30%. He has lost his vision on the right eye completely.

2. The accident occurred on 06.07.2000 at about 7.30 a.m., when the appellant was travelling in a bus bearing Reg.No.KL-8/N-5999 from Puthanathani to Kozhikode and when the bus reached at Paingbottoormadu, the same colluded with a tempo bearing Reg.No.TN-35/J-5882, which was coming from the opposite direction. As the appellant sustained serious injuries, he was admitted in Koya's Hospital, Feroke.

3. The evidence is to the effect that the appellant was treated as inpatient for 33 days. In Ext.A2 wound certificate, the injuries noted are 'abrasion and pain right shoulder, abrasion in the right elbow and wrist, abrasion near right eye, pain in the left eye, penetrating injury cornea'. On examination full thickness corneal wound was at 10 O' Clock position. Ext.A6 is a certificate of physically handicapped, which showed the percentage of disability of the appellant as 40%. Ext.X1 is the disability certificate issued by the Medical Board attached to the Medical College hospital, Kozhikode. The Doctors found total absence of vision and disability assessed is 30%.

4. The learned counsel for the appellant submitted that the appellant was a Mechanic by profession and was aged only 25 years at the time of accident and was earning an income of Rs.6,000/- per month. But the Tribunal has adopted only Rs.2,000/- as his monthly income. It is also submitted that for pain and suffering only Rs.6,000/- has been granted, which is

inadequate, considering the seriousness of injuries and the period of treatment. For loss of amenities also Rs.5,000/- alone is granted by the Tribunal.

5. The learned counsel for the Insurance company supported the award.

6. The appellant, was aged only 25 years at the time of accident and hence the loss of vision will really affect his future prospects, as he was a Mechanic. We are of the view that being a skilled worker, adopting an amount of Rs.3,000/- as his monthly income will be reasonable. He will also be entitled for enhancement towards pain and suffering, considering the seriousness of the injuries and the period of treatment. The disability will really deprive his pleasures of life and will result in loss of enjoyment, which also will have to be adequately compensated. Apart from the same, there will be facial disfigurement, which also is a factor to be reckoned. In that view of the matter, we are also of the view that the compensation awarded towards extra nourishment and by-standers expenses are also to be reasonably re-fixed.

We therefore refix the compensation in the following manner.

Head of Claim	Amount awarded in Rupees
(a) Transportation to hospital	Rs.1,000/-
(b) Extra nourishment	Rs.1,500/-
(c) Damage to clothing	Rs.500/-
(d) Bystanders expenses (33x150)	Rs.4,950/-
(e) Medical expenses	Rs.366/-
(f) Pain and suffering	Rs.20,000/-
(g) Permanent disability (3000x12x18x30/100)	Rs.1,94,400/-
(h) Loss of amenities and enjoyment in life	Rs.30,000/-
(i)disfigurement	Rs.20,000/-
Total	Rs.2,72,716/-(Rupees Two lakhs seventy two thousand seven hundred and sixteen only)
Round off to	Rs.2,72,700/- (Rupees Two lakhs seventy two thousand and seven hundred only)

The total compensation is fixed at Rs.2,72,716/- (Rupees Two lakhs seventy two thousand seven hundred and sixteen only), which we round off to **Rs.2,72,700/-** (Rupees Two lakhs seventy two thousand and seven hundred only). The said amount will carry interest at the rate of 9% per annum from the date of filing of the

petition. The Insurance Company is found liable to satisfy the awarded amount, which finding we confirm. The amount of compensation will be deposited within a period of three months less the amount already deposited and we permit the appellant to withdraw the amount also.

The appeal is allowed accordingly. Parties will suffer their costs in the appeal.

Sd/-
T.R.RAMACHANDRAN NAIR,
JUDGE

Sd/-
K.P.JYOTHINDRANATH,
JUDGE

VS

/TRUE COPY/

PA TO JUDGE