

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 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

MACA.No. 1516 of 2009 ()

AGAINST THE AWARD IN OPMV 2461/2004 of M.A.C.T., ERNAKULAM DATED 29-12-2008

APPELLANT(S): CLAIMANT

NISHANTH V.G.
S/O. GOPI, VELUTHAMANA HOUSE, ELAMAKKARA
COCHIN -26, KAUSALYA NAGAR, ERNAKULAM.

BY ADVS.SRI.K.JANARDHANAN
SRI.MANURAJ. K.J

RESPONDENT(S):

1. ISAC KUTTY AND OTHERS
PODIYATHUVILLA P.O., EDAMULAKKAL PUNALUR.

2. THAJEESH THANKAPPAN,
S/O. THANKAPPAN, MANIMALA PARAMBIL, KAIPUZHA P.O.
KOTTAYAM.

3. THE ORIENTIAL INSURANCE CO. LTD.,
BRANCH OFFICE, P.O. NO.50, KOTHAMANGALAM.

R,R3 BY ADV. SRI.MATHEWS JACOB (SR.)
R,R3 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.1516 of 2009

Dated this the 5th day of February, 2015

JUDGMENT

Asha, J.

The appellant is the injured in a motor vehicle accident which occurred on 7.4.2004 while he was riding as pillion rider on a two wheeler which collided with a jeep. He sustained severe injuries and was admitted in the hospital. He underwent treatment in hospital from 7.4.2004 to 1.5.2004. The injuries sustained are: lacerated wound @ foot, swelling and pain over left finger and compound fracture both bones left leg. POP cast was applied. He sustained compound fracture on his legs and inter nailing on the tibial fracture was also done. The treatment certificate issued on 7.10.2005 shows that he underwent treatment for fracture on his right leg and right little finger. The wound on the right leg was debrided and external fixation was done. Later, inter nailing and plaster cast was applied and he was discharged on 1.5.2004. Thereafter, he was undergoing treatment as outpatient.

2. The appellant was aged 24 years and working as Sales

Executive. Claiming that he was earning a monthly income at the rate of Rs.4,000/-, the claim petition was filed seeking a total compensation of Rs.2,68,000/-. The Tribunal awarded a sum of Rs.98,500/-. This appeal is filed seeking enhancement of compensation.

3. We heard learned counsel on either side.

4. The Tribunal awarded a sum of Rs.16,000/- towards loss of earnings for four months at the rate of Rs.4,000/- per month. The Tribunal awarded a sum of Rs.5,400/- towards transportation, hospitalisation, extra nourishment, damage to clothing and attendant expenses, together. It is seen that he had to undergo inpatient treatment from 7.4.2004 to 1.5.2004, i.e. for a period of 25 days. Reckoning Rs.200/- per day, we award a sum of Rs.5,000/- towards bystander's expenses. The Tribunal has awarded only a sum of Rs.18,000/- towards pain and suffering. It is seen that the appellant had to undergo inpatient treatment itself for a period of 25 days during which he underwent various courses of treatment including surgery and inter nailing, etc. Having regard to the serious nature of injuries and the treatment undergone and the agony which he would have experienced, we award a sum of Rs.35,000/- towards pain and suffering. We do not

find it necessary to modify the amount awarded under any other heads.

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

<i>Head of claim</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Modified amount passed by this Court (Rs)</i>
Transportation, hospitalisation, attendant expenses, extra nourishment & damage to clothing	5400	5400 (excluding bystander expenses)
Medical expenses	44100	44100
Loss of earnings	16000	16000
Pain and suffering	18000	35000
Discomfort & inconvenience	15000	15000
Bystanders expenses		5000
Total	98500	120500

The enhanced amount will carry interest at the rate of 9% per annum from the date of petition. 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. No costs.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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