

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

MACA.No. 254 of 2008 ()

(AGAINST THE AWARD IN OPMV 1573/1999 of IST ADDL.M.A.C.T,
KOZHIKODE DATED 31-05-2007)

APPELLANT/CLAIMANT:

AHAMMED, S/O.KUNHIMUHAMMED, AGED 45
YEARS, RESIDING AT KARAPPANTHODI HOUSE, P.O.KUNDOTTY
MALAPPURAM.

BY ADV. SMT.K.V.RESHMI

RESPONDENTS/RESPONDENTS:

1. P.VIJAYAN, RESIDING AT PATTAMARTHODI
HOUSE, P.O., VALLUVAMBRAM
MALAPPURAM, (OWNER OF BUS KL-10/C 6030).

2. THE ORIENTAL INSURANCE CO.LTD.,
BRANCH OFFICE, JASEELA COMPLEX, NILAMBUR ROAD
MANJERI, MALAPPURAM, (INSURER OF BUS KL-10/C 6030).

R2 BY ADV. SRI.MATHEWS JACOB (SR.)

R2 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
15-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**P.R. RAMACHANDRA MENON
&
BABU MATHEW P. JOSEPH, JJ.**

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M.A.C.A. No.254 OF 2008
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Dated this the 15th July, 2015

J U D G M E N T

P.R. Ramachandra Menon, J:

The appellant herein was the claimant before the Tribunal in O.P.(MV)No.1573 of 1999, which was filed seeking for compensation in respect of the accident occurred on 04.05.1999 while he was travelling in a bus bearing No.KL.10C-6030 from Kozhikode to Kondotty. Because of the negligence on the part of the driver of the bus, it capsized causing injuries to the petitioner, which was sought to be compensated as above. The Insurance Company appeared before the Tribunal and admitted coverage in respect of the vehicle, though negligence of the driver was disputed. On culmination of the trial, based on the evidence available on record, the Tribunal awarded a total sum of Rs.46035/- plus interest at the rate of 6% from the date of petition till the date of satisfaction. Appeal is for enhancement of

the compensation.

2. We heard the learned Counsel for the petitioner as well as the learned Counsel appearing for the respondent Insurance Company. It is seen that the petitioner sustained injuries as extracted below:

- 1. Fracture to P2 Spine and also some injuries.*
- 2. Mild cerebral odema.*
- 3. Fracture to the 1st rib on the right side with odema around C6, C7, C8, D1 and D2 nerve roots*

3. Amounts have been awarded under different heads. Towards the head *pain and suffering*, the Tribunal has awarded only a sum of Rs.15000/-. But considering the extent of injuries, this Court finds that a further sum of **Rs.10000/-** can be granted to the appellant. It is ordered accordingly. The compensation awarded under the head *loss of amenities in life* is also inadequate with the certified disability of 4%. We therefore grant **Rs.10000/-** over and above a sum of Rs.10000/- awarded by the Tribunal. Compensation towards disability has been

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worked out by the Tribunal granting a sum of Rs. 9000/-. We make it to Rs.15000/-. So, there will be a balance figure of **Rs.6000/-** under the above head. The total balance compensation payable comes to **Rs.26,000/-**, which shall be satisfied at the rate of **9%** from the date of application till the date of satisfaction. The second respondent/Insurance Company is directed to satisfy the said amount, since the policy is not under dispute.

The appeal is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE.**

**BABU MATHEW P. JOSEPH,
JUDGE.**

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