

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYAISHTA, 1937

MACA.No. 1828 of 2009

OP(MV) 976/2003 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, ALAPPUZHA.
.....

APPELLANT/PETITIONER:

**PURUSHOTHAMAN @ BABY, AGED 42 YEARS,
S/O. PRABHAKARAN, ANANDAVELI HOUSE,
VARANAM P.O., THANEERMUKKOM PANCHAYATH,
WARD NO.12, ALAPPUZHA DISTRICT.**

BY ADV. SRI.A.T.ANILKUMAR

RESPONDENT(S)/RESPONDENTS:

- 1. JIYASMON K.J., S/O.JALALUDHEEN,
KUNNEL HOUSE, VARNAM P.O., PUTHANANGADI,
CHERTHALA, THANEERMUKKOM PANCHAYATH,
WARD NO.13, ALAPPUZHA DISTRICT.**
- 2. KERALA STATE INSURANCE DEPARTMENT,
REP. BY ITS DIRECTOR, SANTHI NAGAR.**

R2 BY SENIOR GOVERNMENT PLEADER SRI.K.K.SAIDALAVI

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 03-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

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

.....
M.A.C.A. No. 1828 of 2009
.....

Dated this the 3rd day of June, 2015

JUDGMENT

K.P.Jyothindranath, J.

This appeal is preferred against the award dated 7th December, 2007 made in O.P.(M.V) No. 976 of 2003 on the file of the Motor Accidents Claims Tribunal, Alappuzha.

2. The petitioner is the appellant. The case of the appellant is that he met with a motor vehicle accident at 7.25 p.m. on 24.4.2003 while he was standing on the eastern side of the Alappuzha-Thenneermukkom Road. He was hit by a bike bearing registration No. KL-04/M-1417, which was driven in a rash and negligent manner.

3. The petitioner filed petition for compensation before the Motor Accidents Claims Tribunal, Alappuzha for an amount of Rs. Six lakhs for the injuries sustained to him. The Motor Accidents Claims Tribunal found that the accident occurred due to the negligent riding of the motor cycle and awarded a total compensation of Rs. 1,10,000/-. He filed this appeal alleging

that the quantum of compensation is inadequate.

4. The case of the appellant is that he was a Motor Mechanic and conducting a workshop in the name and style "Friends Auto Garage" at Cherthala and is having an income of more than Rs.6,000/- per month. It is the case of the appellant that he sustained severe injuries in that accident and he was first admitted in C.H.C., Muhamma. Ext.A7 is the copy of the wound certificate. Thereafter, he was treated at Medical College Hospital, Alappuzha. Ext.A8 is the discharge card issued from there. As per the said discharge card, he was admitted in the hospital on 23.4.2003 and discharged from there on 19.5.2003. In the accident, he sustained fracture posterior wall of right sphenoid sinus, fracture left zygomatic bone, fracture left lateral pterigoid plate, fracture right mastoid, right mastoid air-cells are hazy, soft tissue swelling over left zygomatic region and right parital cortex, abrasion back of head right side, lacerated wound on root of nose, lacerated wound on left ear lobe and tear off, lacerated wound on left shin and left thigh, lacerated wound on right shin. He produced medical bills worth Rs.5,387/- and also a bill for Rs.1000/- for scanning.

5. It is the case of the appellant that to prove the fact that he is conducting a workshop, he produced Ext.A20, which is a Provisional Registration Certificate issued from the Directorate of Industries and Commerce, Government of Kerala. It is the case of the appellant that Ext.A16 is the disability certificate issued by Dr. Girish attached to the Medical College Hospital, Alappuzha. As per the said certificate, his neurological disability is assessed as 15%. Ext.A17 is issued by another doctor which shows that the appellant has bilateral mixed deafness on the left ear and he has narrowing of left ear canal.

6. After considering the materials produced by the appellant and also hearing the counsel for the appellant and the Insurance Company, the compensation is reassessed as follows:

Sl. No	Head of claim	awarded by Tribunal(in Rupees)	modified by this court(in Rupees)
1	Loss of earnings	12000	27000 (4500 x 6)
2	Transportation	2500	2500/-
3	medical expense	6500	6500
4	Bystander's expenses	3000	4000
5	Extra nourishment	1000	2,000/-
6	Permanent Disability	57600	1,21,500 (4500x12x15x15/100)
7	Pain & sufferings	20000	30,000/-

Sl. No	Head of claim	awarded by Tribunal(in Rupees)	modified by this court(in Rupees)
8	Loss of amenities	2000	20,000/-
9	Damage to clothing	400	400
10	Future treatment	5000	10000
	Total	Total	Rs.2,23,900- (Rupees Two Lakhstwenthythree thousand nine hundred only)

The enhanced compensation will bear 9% interest. The Insurance Company shall deposit the amount within three months from this order. On deposit the appellant is entitled for release of the amount. The parties shall bear the costs in the appeal.

The appeal is allowed as above.

Sd/-

T.R.RAMACHANDRAN NAIR
JUDGE

Sd/-

K.P.JYOTHINDRANATH
JUDGE

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/true copy/

P.S. to Judge.

In the operative portion of the judgment dated 3.6.2015 in M.A.C.A.No.1828/2009, after the sentence “The enhanced compensation will bear 9% interest “, the words “ from the date of petition” is added, as per the order dated 25.01.2016 in R.P.No.21/2016 in M.A.C.A.No.1828/2009.

Sd/-
Registrar (Judicial)