

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

MACA.No. 1515 of 2010 ()

AGAINST THE AWARD IN OPMV 126/2002 of M.A.C.T., THALASSERY
DATED 19-02-2010

APPELLANT/PETITIONER:

MUNEER.K,
AGED 29 YEARS
S/O.HAMZA, KEERANTAKATH HOUSE, P.O.NHEKLY
PEDENA, KANNUR DISTRICT.

BY ADV. SRI.P.S.PRADEEP

RESPONDENT(S)/RESPONDENT NO.6:

NATIONAL INSURANCE CO.LTD,
PERUMBA, PAYYANNUR.

R,R BY ADV. SMT.RAJI T.BHASKAR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 27-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A No.1515 of 2010

Dated this the 27th day of March, 2015

JUDGMENT

Ramachandran Nair, J.

The injured is the appellant herein. He sustained injuries in an accident at the age of 23, on 12.06.2001. He was travelling in a motorbike with the Reg.No.KL-13E-9697 as a pillion rider. At a place called Kanhiramukku, a tempo van bearing Reg.No.KL-13C 5673 came in the opposite direction and dashed against the motorbike causing injuries to him. He was taken to the Pariyaram Medical College Hospital. The Tribunal has granted a total compensation of Rs.78,500/-.

2. The appellant claimed that he was a Salesman and was earning Rs.4,500/- per mensem. It appears that at the time when examination of witnesses started, he was working abroad and PW1, his power of attorney holder gave evidence.

3. Even though Ext.X1 shows 2% disability, on the ground that there is no loss of earning power, no amount was granted. The learned counsel for the appellant submitted that even if no loss of earning power is there, for disability sustained,

due amount ought to have been granted by the Tribunal. According to us, the disability will have to be adequately compensated. He sustained injuries in the year 2001. Therefore we adopt the monthly income reckoned by the Tribunal itself, ie. Rs.3,000/-, while granting amount towards actual loss of earning. Hence he will be entitled to Rs.12,960/- as compensation towards disability.

4. The learned counsel for the appellant submitted that he was in the hospital for a continuous period of 50 days. Thereafter the treatment continued for a period of 4 years. Ext.A4 series are the discharge summaries produced by the appellant.

5. It is seen from the records that he had sustained various injuries which we note down below:

“Fracture on shaft of left femur, left patella proximal phalanx of 5th finger etc.”

In the light of the injuries sustained, various treatments have been undertaken by him and therefore we award an amount of Rs.30,000/- towards pain and suffering. Towards bystander's expenses, the Tribunal has granted Rs.5,000/-. Since the accident is of the year 2001, we grant @ Rs.200/- per day making

the total amount under the said item to Rs.10,000/-. The Tribunal has granted Rs.3000/- towards transport to hospital, which we enhance to Rs.5,000/-.

6. Accordingly the award passed by the Tribunal is modified as follows:

<i>Sl.No.</i>	<i>Description</i>	<i>Amt.</i>
1	Loss of amenities	Rs.5,000.00
2	Bystander's expenses	Rs. 10,000.00
3	Medical expenses	Rs. 28,500.00
4	Pain and sufferings	Rs. 35,000.00
5	Extra nourishment and review	Rs. 6,000.00
6	Loss of earnings @3000/- per month for 4 months	Rs. 12,000.00
7	Transport to hospital	Rs. 5,000.00
8	Permanent disability	Rs. 12,960.00
	Total	Rs.1,14,460.00

[Rupees One lakh fourteen thousand four hundred sixty only]

7. Accordingly the appellant is entitled to a total compensation of Rs.1,14,460/- (Rupees One lakh fourteen thousand four hundred sixty only) and the enhanced amount will carry interest @9% per annum from the date of petition. There will be a direction to the Insurance Company to deposit the amount (less the amount if any already paid) within three months from the date of receipt of a copy of this judgment and on such

deposit being made, the claimant can withdraw the amount.

The appeal is allowed accordingly. The parties will bear their respective costs in this appeal.

Sd/-

T.R.RAMACHANDRAN NAIR
Judge

Sd/-

P.VASHA
Judge

rtr/

/true copy/

P.S to Judge