

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 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

MACA.No. 1788 of 2010 ()

AGAINST THE AWARD IN OPMV 793/2005 of M.A.C.T.,ERNAKULAM DATED 03-12-2009

APPELLANT(S)/PETITIONER:

N.S.BABU

SON OF SRI.SANKU, THEKKECHIRA HOUSE, WARD NO.12

ANJILIKKAD, AROOR P.O., AROOR VILLAGE

CHERTHALA TALUK, ALAPPUZHA.

BY ADVS.SRI.ANIL S.RAJ

SMT.K.N.RAJANI

SMT.ANILA PETER

RESPONDENT(S) :

1. JOSE JOHN

J.K.CONSTRUCTIONS, 39/3347, VIJAYA RAMA

MENON ROAD, RAVIPURAM, COCHIN-682 016.

2. RAJU.K.J, S/O.K.M.JOHN,

KALACHIPARAMBIL HOUSE, K.S.N.MENON ROAD, ERNAKULAM

COCHIN-682 016.

3. THE ORIENTAL INSURANCE COMPANY

LIMITED, D.O.NO.II, RUKIYABAGH

RAVIPURAM, COCHIN-682 016.

R,R1 BY ADV. SRI.K.C.ELDHO

R,R3 BY ADV. SRI.P.JAYASANKAR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 27-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.1788 of 2010

Dated this the 27th day of May, 2015

JUDGMENT

Jyothindranath, J.

This appeal is preferred against the award in O.P.(MV) No.793/2005 on the file of the Motor Accidents Claims Tribunal, Ernakulam. The case of the appellant is that he sustained injuries in a motor vehicle accident occurred on 3.12.2004. His case is that while he was attending his work at a construction site, he was knocked down by a pick-up van driven by the second respondent and thereby sustained injuries. He claimed a total compensation of Rs.3 Lakhs. The Tribunal awarded only a sum of Rs.94,000/-.

2. When the appeal came up for hearing, the submission made before us by the learned counsel for the appellant is regarding the inadequacy of compensation awarded. It is also the submission that the appellant sustained comminuted fracture both bones ® leg as well as

injuries on the right ankle, right elbow and back of forehead. The appellant was treated as inpatient for 8 days and there was closed interlocking nailing under spinal anesthesia. The appellant also produced medical bills for about Rs.17,436/- and the Medical Board attached to Alappuzha Medical College assessed his disability at 15%. It is also the submission that no multiplier was applied for assessing compensation towards permanent disability, even though the disability was assessed by the Medical Board. It is also the submission that the appellant was aged only 32 years at the time of accident and he was a workman who sustained injuries at the work site.

3. After considering the evidence in this case and also considering the submission at the bar, we refix the compensation under the different heads considering the pain and suffering undergone by the appellant, loss of amenities and enjoyment in life, permanent disability, future treatment, etc. as follows:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal</i>	<i>Modified award passed by this Court</i>
Transportation, hospitalisation, attendant expenses, extra nourishment & damage to clothing	5000	7500
Treatment expenses	17500	17500

<i>Head of claim</i>	<i>Amount awarded by the Tribunal</i>	<i>Modified award passed by this Court</i>
Loss of earnings	7500	7500
Pain and suffering	18000	30000
Discomfort and reduction in amenities	7000	30000
Permanent disability	34000	72000 (30000 x 16 x 15/100)
Future treatment	5000	25000
Total		189500

(Rupees One Lakh Eighty-nine Thousand and Five hundred only)

The enhanced amount of compensation will carry interest at 9% per annum from the date of petition and 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 appellant is permitted to withdraw the amount on such deposit being made.

The appeal is allowed as above. The parties will suffer their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(K.P. JYOTHINDRANATH,, JUDGE.)

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