

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

MACA.No. 841 of 2008 ()

AGAINST THE AWARD IN OPMV 2992/2001 of M.A.C.T., THRISSUR
APPELLANT/PETITIONER::

MURALI @ MURALEEDHARAN
NAIR, PATTIYATH VALAPPIL HOUSE, VELUR P.O.
THRISSUR DISTRICT.

BY ADV. SRI.P.V.CHANDRA MOHAN

RESPONDENT(S)/RESPONDENTS 2 TO 4::

1. ANTO, S/O. LAZAR, POOPADY HOUSE, MANALLOOR P.O.
THRISSUR. (DELETED)

2. UNITED INDIA INSURANCE CO. LTD., BRANCH
OFFICE, KURUPPAM ROAD, THRISSUR.

3. VIJAYAN.P.K., POTTEKKAT HOUSE,
VATANAPPILLY P.O., THRISSUR DISTRICT.
(R1 DELETED FROM THE PARTY ARRAY AS PER ORDER IN IA 2939/2013
DT.19.11.2013)

R,R2 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.841 of 2008

Dated this the 2nd day of June, 2015

JUDGMENT

Jyothindranath, J.

This appeal is preferred against the award dated 17.12.2007 made in O.P.(MV) No.2992/2001 on the file of the Motor Accidents Claims Tribunal, Thrissur. The injured is the appellant. The case of the appellant is that on 31.3.2001 at about 1.45 p.m. while the appellant was riding a motor cycle through a public road, a bus came and hit against the motor cycle and in that accident the appellant sustained severe injuries. Alleging that negligence of the driver is the cause of accident, appellant filed an application for compensation before the Tribunal.

2. After considering the materials before the Tribunal, the Tribunal awarded a total compensation of Rs.2,10,200/-. Aggrieved by the said award, this appeal is preferred.

3. When the appeal came up for hearing, learned counsel for the

appellant vehemently submitted before us that the quantum of compensation granted on various heads are inadequate. It is the submission that even though 20% disability was assessed by a qualified doctor, the Tribunal only considered 10% disability, to assess the compensation for permanent disability. It is also the submission that the age of the appellant was 23 years, but the multiplier adopted is 17. It is also the submission that on various heads including loss of amenities, the amounts granted are insufficient.

4. This is a case where the appellant sustained fracture femur right as well as fracture tibia and fibula right leg. There is also ligament injury on the right knee. He was at first treated at Mother Hospital, Thrissur and thereafter he was transferred to Aswini Hospital. Exts.A2 and A3 are the medical certificates produced by the appellant to show the injuries. Ext.A6 discharge summary shows that he was taken to Aswini Hospital on 31.3.2001 with fracture leg, femur and other injuries. It is the case of the appellant that he was working as an electrician and was earning a sum of Rs.4,500/- per month. It is also the submission that due to the injuries, for a long period, he was not in a position to work. It is the further case of the appellant that this is a

case where there are fracture on the femur as well as there is both bone fracture on tibia, fibula, etc. Considering the injuries sustained, the nature of the treatment underwent and also considering the amounts already awarded, we consider this as a case where refixation of compensation is warranted. After considering the evidence of the Doctor, 15% disability is adopted.

Hence, we refix the compensation as follows:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal</i>	<i>Modified award passed by this Court</i>
Loss of earnings	16000	28000
Transport to hospital	1500	1500
Extra nourishment	2000	2000
Damage to clothing	500	500
Medical expenses	123400	123400
Bystander's expenses	3000	6300
Pain and suffering	15000	30000
Loss of amenities	8000	25000
Permanent disability	40800	113400 (3500 x 12 x 18 x 15/100)
Future medical expenses		15000
Total		345100

(Rupees Three lakhs forty-five thousand and one hundred only)

The enhanced amount of compensation will carry interest at 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, within a period of three months and the appellant is permitted to withdraw the same.

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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