

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

MACA.No. 1834 of 2010 ()

AGAINST THE AWARD IN OPMV 1325/2005 of M.A.C.T., ERNAKULAM DATED
23-10-2009

APPELLANT/PETITIONER: :

C.D.SABU, AGED 53 YEARS, S/O.DINAKARAN,
CHAKKALACKAL HOUSE, NEAR BOAT JETTY, VALLARPADAM P.O.
COCHIN-31.

BY ADVS.SRI.R.SUDHISH
SMT.M.MANJU
SRI.K.R.RANJITH

RESPONDENTS/RESPONDENTS: :

1. JAMEELA RAZACK, W/O.RAAZACK,
KOLATTHEYKKATT HOUSE, NATTIKA BEACH P.O., CHAVAKKAD
THRISSUR DISTRICT.680572

2. P.S.RAVEENDRAN, S/O.SEKHARAN,
PATHRAKADAVIL HOUSE, NEAR ANAPUZHA-KODUNGALLUR, BRIDGE
ANAPUZHA, THRISSUR DISTRICT.680667

3. NATIONAL INSURANCE COMPANY LTD.,
BRANCH OFFICE-II, K.X.BUILDING, THAMPANOOR
THIRUVANANTHAPURAM.

R3 BY ADV. SRI.LAL GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A.No.1834 OF 2010

Dated this the 2nd day of March, 2015

JUDGMENT

Asha, J.

The appellant met with an accident on 14.9.2004 when the scooter which he was riding was knocked down by a car. He was immediately taken to the hospital on account of the injuries sustained by him namely, abrasion on anterior aspect from P/3 to M/3, tenderness on lateral tibial condyle, ACL, PCL and LCL injury (R) knee. During the period of hospitalization, he underwent the following treatment, as explained in paragraph 8 of the award. :

“Arthroscopy was done, crape bandage and knee brace were also applied. Regular dressings were done in the injures area. Apart from arthroscopy reconstruction was done using bone graft.”

2. As per the disability certificate issued by the Medical Board, the disability was assessed at 2% .

3. The claim petition was filed before the Tribunal claiming compensation to the tune of Rs.3 lakhs. The appellant claimed that he was engaged in contract works earning a monthly income of Rs.10,000/-.

4. The Tribunal awarded a sum of Rs.150,500/- reckoning his income @ Rs.4,000/- per month. This appeal is filed seeking enhancement in compensation. It is pointed out that the income reckoned by the Tribunal is too low and the amounts awarded under various heads are inadequate.

5. On the other hand, the learned counsel appearing for the Insurance Company pointed out that the Tribunal has awarded reasonable amount under all the heads of compensation.

6. It is seen that the appellant underwent inpatient treatment for a period of 35 days. The Tribunal awarded a sum of Rs.7,000/- under the composite head of hospitalization, transportation, damage to clothing and articles as well as attendant expenses and extra nourishment. We award a sum of Rs.7,000/- towards bystander expenses, a sum of Rs.2,000/- towards transportation, a sum of Rs.2,000/- towards extra nourishment and Rs.500/- towards damage to

cloths. Thus in the place of the sum of Rs.7,000/- awarded by the Tribunal, a sum of Rs.11,500/- is awarded to the appellant under various heads as mentioned above. The Tribunal has awarded a sum of Rs.20,000/- towards loss of earnings. It is seen that the disability assessed is 2%. Having regard to the fact that the appellant was engaged in the contract works and he was an income tax payee, we fix his income @ Rs.5,000/- per month. Therefore since he was aged 48, the compensation towards permanent disability will come to Rs. 15,600/- (5000 x 12 x 13 x 2%).

7. The Tribunal has awarded only Rs.15,000/- towards pain and suffering. In view of the injuries sustained by the appellant and the treatment undergone in the hospital itself for a period of 35 days followed by outpatient treatment and the fact that the appellant had to keep away from his work for a long period, we enhance the amount to Rs.35,000/-. Similarly, under the head of loss of amenities, the Tribunal has awarded a sum of Rs.10,000/-. We enhance the same to Rs.15,000/-. The Tribunal has granted a sum of Rs.20,000/- towards loss of earnings i.e. for a period of five months. Reckoning his income @ Rs.5,000/-, the compensation under the head of loss of earnings will

come to Rs.25,000/-.

8. Thus the award of the Tribunal is modified as follows :

<i>Head of claim</i>	<i>Amount awarded in rupees</i>
Hospitalization, transportation, damage to clothing & articles, attendant expenses and extra nourishment	11500
Medical expenses	88500
Loss of earnings	25000
Pain and suffering	35000
For discomforts and inconvenience	15000
Permanent disability	15600
Total	190600 (Rupees one lakh ninety thousand six hundred only)

9. The enhanced amount will carry interest @ 9% per annum from the date of petition. The Insurance Company shall deposit the amount less the amount already deposited within a period of three months from the date of receipt of a copy of this judgment.

The appeal is accordingly allowed.

T.R.RAMACHANDRAN NAIR, JUDGE

SV.

P.VASHA, JUDGE