

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

MACA.No. 2707 of 2014 ()

AGAINST THE AWARD IN OPMV 1129/2009 of MACT VATAKARA DATED
23-05-2014

APPELLANT/PETITIONER:

RANJITH AGED 26 YEARS
S/O.RAJAN, PARAYULLATHIL HOUSE, PO MOKERI
VIA KOZHIKODE DISTRICT

BY ADVS.SRI.P.V.SANTHOSH JOSE
SRI.R.RETHEESH KUMAR
SMT.A.MUMTHAZ
SMT.DIVYA B.NAIR

RESPONDENTS/RESPONDENTS

1. MUHAMMED ALI
S/O.HASSAN, AGE NOT KNOWN, PARACHALIL HOUSE,
PO OORATH
KUTTIADY, VADAKARA, KOZHKODE 673 508

2. UNITED INDIA INSURANCE CO.LTD
BRANCH OFFICE, PB NO.17, CITY TOWER
NEAR OLD BUS STAND , MAIN ROAD, VADAKARA 673 101

BY SRI.JOHN JOSEPH VETIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 06-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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

M.A.C.A.No.2707 OF 2014

Dated this the 6th day of January, 2015

JUDGMENT

Asha, J.

The appellant is the injured in a motor vehicle accident which occurred on 1.9.2009 while he was knocked down from his motor cycle by a jeep. He suffered very severe injuries and was immediately taken to the hospital. He sustained mangled extremity (L) leg followed by it below knee amputation was done. Claiming that he was earning a monthly income of ₹ 6,000/- on being engaged as construction worker, he claimed compensation before the Tribunal to the tune of ₹ 36,78,000/- which was limited to ₹12 lakhs.

2. The Tribunal awarded a total sum of ₹8,79,853/-, reckoning his monthly income as ₹3,000/-. The appellant sustained disability on account of the injuries sustained and the disability was assessed as 50% considering the amputation to his leg. The Tribunal awarded a sum of ₹42,000/- towards loss of earning considering the

fact that he would have lost his earnings atleast for a period of one year on account of the injuries sustained.

3. This appeal is filed seeking enhancement of compensation alleging that the amounts awarded under various heads of compensation are thoroughly inadequate.

4. We heard the learned counsel on either side.

5. The accident occurred in the year 2009 and the appellant was engaged as a construction worker. With regard to the wages structure available at the relevant time, we deem it fit to reckon his monthly income @ ₹ 4,500/-. Therefore the compensation awarded under the head of loss of earnings for the period of 12 months will come to ₹54,000/-. Similarly, the amount awarded under the head of compensation for disability will come to ₹ 4,86,000/- (4500 x 12 x 18 x 50%). Even though the learned counsel for the appellant submitted that the amounts awarded under other heads require interference, we find that the amount awarded under other heads are fair and reasonable and no interference is required.

6. Thus the award is modified as follows :

<i>Head of claim</i>	<i>Amount awarded in rupees</i>
Transport expenses	7500
Damage to clothing and articles	500
Loss of earning	54000
Treatment expenses	11853
Extra nourishment	5000
Bystander expenses	15000
Fixation of artificial limb	185000
Compensation for disability	486000
Loss of amenities	75000
Compensation for pain and suffering	100000
Loss of service rendered to house	10000
Loss of prospective marriage life	50000
Total	999853

7. The Tribunal has awarded interest only @ 7.5% interest.

We award interest @ 9% per annum from the date of petition in the light of the judgment of the Supreme Court in **Supeidei (Smt.) and others v. National Insurance Company Ltd. and another (2009(4) SCC 513).** The Insurance Company shall deposit the amount less the

amount already deposited before the Tribunal within a period of three months from the date of receipt of a copy of this judgment.

The appeal is allowed to the above extent.

T.R.RAMACHANDRAN NAIR, JUDGE

P.V.ASHA, JUDGE

SV.