

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

MACA.No. 2783 of 2014 ()

AGAINST THE AWARD IN OPMV 274/2012 of M.A.C.T.,ERNAKULAM DATED
15-07-2014

APPELLANT/PETITIONER:

ABDUL NAZER .T.A.,S/O ABBAS, AGED 42 YEARS
H. NO. 13/573 A, CHULLIKKAL DESOM
THOPPUMPADY VILLAGE, KOCHI TALUK,
ERENAKULAM DISTRICT.

BY ADVS.SRI.MATHEWS K.PHILIP
SMT.T.MANASY

RESPONDENTS/RESPONDENTS:

1. P.A SHAHEER
S/O. ABDUL RAHIMAN, PUTHIYAVEETIL HOUSE
K.M.P. JUNCTION, PALLURUTHY.P.O., EDAKOCHI VILLAGE
ERNAKULAM DISTRICT.

2. SHIHAB U.A.
H. NO. 2/889, UMAITHANAKATH THURUTHY, KALAVATHY
KOCHI-682001.

3. THE RELIANCE GENERAL INSURANCE COMPANY LTD.,
ELISEBATH ALEXANDER MEMORIAL BUILDING
SHANMUGHAM ROAD, ERNAKULAM, KOCHI-682015.

R3 BY ADV. SRI.K.B.RAMANAND

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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

MACA No.2783 OF 2014

Dated this the 7th day of January, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by the claimant alleging that the quantum allowed is inadequate. As against the total claim of Rs.1,40,000/-, the Tribunal has awarded Rs. 73,500/-. He was injured in an accident which occurred on 7.10.2011 while he was walking through Chulikkal road. The offending vehicle is a motor cycle bearing Reg.No.KL-43/C-8768. He was treated in the Fathima Hospital, Perumbadappu immediately after the accident.

2. The learned counsel for the appellant submits that in spite of sustaining fracture and he was under treatment for more than two months, loss of earnings has been granted only for a period of two months. It is also submitted that the compensation awarded under different heads is also inadequate.

3. The learned counsel for the Insurance Company submits

that a reasonable assessment has been made by the Tribunal.

4. Before the Tribunal, the appellant has produced documents Exts.A1 to A10. Ext.A9 is the discharge summary from the hospital. Paragraph 8 of the judgment shows that Ext.A3 wound certificate shows that he was treated on 7.10.2011 due to injuries sustained in a road traffic accident. It is clear from Ext.A3 that he has sustained fracture lateral tibial plateau. There is abrasion on left leg, swelling and tenderness on right knee and right leg. The medical bills show that he had spent an amount of Rs. 41,685/-. He claimed that he is a Maison and was getting Rs.7,500/- per month. A notional income has been taken by the Tribunal and accordingly for two months, Rs.8,000/- has been granted for loss of earnings.

5. It is clear that there is no permanent disability and no disability certificate has been produced. The Tribunal has granted compensation under different heads including for disfigurement and loss of amenities Rs.10,000/-, for pain and suffering Rs.10,000/-, for medical expenses Rs.42,000/-, for bystander expenses Rs.1000/- and Rs.1000/- each for transport expenses and extra nourishment and

Rs.500/- towards damage to clothes and articles.

6. It is clear that he had sustained fracture and has spent Rs.41685/- for treatment and various treatment procedures would have been undertaken. Therefore for compensation towards pain and suffering, we grant a further amount of Rs.10,000/-. The award is modified accordingly. Granting an additional amount of Rs.10,000/- will make the total award amount at Rs.83,500/-. The amount will carry interest @ 9% instead of 8% granted by the Tribunal. 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 allowed to the above extent.

T.R.RAMACHANDRAN NAIR, JUDGE

P.V.ASHA, JUDGE

SV.