

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

MACA.No. 1314 of 2008 ()

AGAINST THE AWARD IN OPMV 33/2006 of M.A.C.T. TIRUR DATED 01-03-2008

APPELLANT(S)/PETITIONER::

UNNINAIR, AGED 60 YEARS,
S/O.RAMUNNI NAIR, KOZHIKKARA PUTHEN VEETIL HOUSE
KAKKIDIPURAM, CHANGARAMKULAM, ALAMKODE AMSOM DESOM
MALAPPURAM DIST.

BY ADVS. SRI.KAUSER EDAPAGATH
SRI.K.R.AVINASH (KUNNATH)
SRI.V.G.SALEESH

RESPONDENT(S)/RESPONDENTS::

1. A.PADMANABHAN, S/O.ARUMUGHAN,
ANNIKKARA HOUSE, ALAMKODE P.O., MALAPPURAM DT.
(DRIVER) .

2. M.V.VENUGOPALAN, 24/406,
A.MAHCHERY VEETIL HOUSE, PALLAPPURAM, PONNANI
MALAPPURAM DISTRICT (OWNER)

3. THE NEW INDIA ASSURANCE CO. LTD.,
BRANCH OFFICE, K.H.BUILDING, THAZHEPALAM
TIRUR, MALAPPURAM DT. (INSURER)

R3 BY ADV. SRI.N.S.MOHAMMED USMAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

P.N.RAVINDRAN & ANU SIVARAMAN, JJ.

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M.A.C.A. No.1314 of 2008

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Dated this the 4th day of June, 2015

JUDGMENT

P.N.Ravindran, J.

The appellant is the claimant in O.P(M.V).No.33 of 2006 on the file of the Motor Accidents Claims Tribunal, Tirur. By award passed on 01.03.2008, the Motor Accidents Claims Tribunal awarded the sum of ₹64,000/- as compensation to the appellant and directed the third respondent insurer to deposit the said amount together with interest at 9% per annum from the date of petition till the date of payment and costs quantified at ₹1,000/-. The claimant has, dissatisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal, filed this appeal.

2. We heard Sri. K.R. Avinash, learned counsel appearing for the appellant and Sri. N.S. Mohammed Usman, learned counsel appearing for the third respondent. The appellant was aged 60 years at the time of the accident. Though he had contended before the Motor Accidents Claims Tribunal that he was running a tea shop and was earning an income of ₹7,000/- per month, no evidence was adduced to prove that he was running a tea shop. Though he had sustained fracture of both bones of the left leg and had suffered fracture of the right trochanter,

he was hospitalised only for a period of 7 days. The appellant/claimant did not produce any document to show that as a result of the injuries sustained by him he had suffered any disability, permanent or temporary and that on account of injuries sustained by him, he is no longer in a position to run the tea shop. In that view of the matter, the Motor Accidents Claims Tribunal awarded only the following amounts as compensation:

Transport to hospital	₹1,000/-
Damage to clothing	₹ 500/-
Expenses of bystander	₹ 700/-
Medical bills	₹40800/-
Extra nourishment	₹1,000/-
Pain and suffering	₹15000/-
Loss of amenities	₹5,000/-

Total ₹64,000/-

The Tribunal did not award any amount as compensation for permanent disability. The main challenge in this appeal is as regards the denial of compensation under the head permanent disability. It is also contended that the compensation awarded under the other heads is meagre and is not just and fair.

3. After hearing learned counsel appearing for the appellant and on going through the materials on record, we are of the opinion that no exception can be taken to the finding entered by the Tribunal, that the appellant has not proved that he has suffered any permanent disability, as a result of the injuries sustained by him in the motor accident. The Tribunal has by the impugned award awarded the sum of ₹1,000/- towards expenses for transport to hospital, ₹500/- towards damage to clothing, ₹700/- towards expenses of a bystander and ₹1,000/- towards extra nourishment. The amount covered by the medical bills has also been reimbursed. The accident took place on 15.01.2005. By no stretch of imagination can it be said that the compensation awarded under the aforesaid heads is meagre or inadequate or that it is not just and fair. The impugned award discloses that the appellant had suffered fracture of both bones of the left leg. He had also suffered a fracture of the right trochanter and undergone treatment as an in-patient in the hospital for a period of 7 days. Having regard to the fact that as a result of the fracture he was confined to his house and would have also undergone pain and suffering, having regard to his age, we are of the opinion that compensation awarded under the head pain and suffering should be enhanced to ₹25,000/-. Likewise, the compensation awarded under

the head loss of amenities should on a modest estimate be raised to ₹25,000/-. It would to some extent, also compensate the appellant for the loss of earnings.

We accordingly hold that the appellant/claimant is entitled to an additional compensation of ₹30,000/-. The third respondent insurer shall deposit the said amount together with interest at 9% per annum from the date of petition till the date of deposit, within two months from today. Upon such deposit being made, the amount deposited shall be released to the appellant. No costs.

**P.N.RAVINDRAN
JUDGE**

**ANU SIVARAMAN
JUDGE**

kp/-