

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 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

MACA.No. 1468 of 2008 ()

AGAINST THE AWARD IN OPMV 1418/2002 of MACT,THRISSUR
DATED 07-07-2007

APPELLANT:PETITIONER

RASHEED,
S/O.MOIDEEN BHAVA
MAYANDIRIYAKATH HOUSE, P.O.ARIYANNOOR,
KANDANISSERY.

BY ADVS.SRI.SHEJI P.ABRAHAM
SMT.GISA SUSAN THOMAS

RESPONDENT(S):RESPONDENTS

1. PRAKASHAN,
S/O.KUMARAN,
PONNARASSERY HOUSE,
CHOONDAL, VETTUKKAD
CHOTTLAPPARA DESOM.

2. Mr.K.A.LOHIDHAKSHAN, MARANKULANGARA HOUSE
ELAVALLY SOUTH DISTRICT, THRISSUR.

3. NATIONAL INSURANCE CO.LTD., AMBIKA
ARCADE, M.G.ROAD.

R,R3 BY ADV. SRI.JOE KALLIATH

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A No.1468 of 2008

Dated this the 26th day of March, 2015

JUDGMENT

Asha, J.

The appellant met with an accident on 15.05.2002 at the age of 22 years while he was riding on a motorcycle as a pillion rider. A bus which came in the opposite direction knocked him down causing serious injuries to him. He was immediately taken to the Amala Hospital, Thrissur, where he underwent inpatient treatment upto 3.06.2002. He sustained compound fracture of femur and head injury. His disability was assessed at 25%. The Tribunal, on the basis of the evidence adduced by examining PW1 doctor who issued the certificate, came to the conclusion that the disability can be assessed as 12%. It was found that his right lower limb was shortened and he was limping. The Tribunal assessed the compensation reckoning his annual income as Rs.15,000/- and adopting `17' as the multiplier. A sum of Rs.30,600/- was granted towards permanent disability. The total compensation awarded was Rs.1,36,700/-.

2. This appeal is filed seeking enhancement in compensation complaining inadequacy of compensation on various heads. We heard the learned counsel on either side.

3. The appellant was aged 22 years at the time of the accident. The learned counsel for the appellant submitted that the appellant was engaged in sales and marketing of goods and he was earning. The learned counsel for the Insurance Company pointed out that there was no such claim in the claim petition, though in the written statement it is stated accordingly. In the light of the fact that the accident occurred in the year 2002 and the appellant was aged 22 years, we are of the view that his annual income can be reckoned as Rs.24,000/-. The proper multiplier that can be adopted is 18. Therefore the compensation under the head 'permanent disability' will come to Rs.51,840/- (ie., Rs.24000X12/100X18).

4. The appellant has incurred disfiguration on account of the accident due to limping and shortening of his leg. The appellant was unmarried at the time of the accident. Therefore there was every chance of diminution of marriage prospects. We therefore award a sum of Rs.30,000/- towards diminution of

marriage prospects. Under the head 'pain and suffering', the Tribunal has awarded a sum of Rs.15,000/-. It is seen that the appellant underwent inpatient treatment for a period of 23 days and he underwent various procedures of treatment. Hence we enhance the compensation granted under the head pain and suffering (Rs.15,000/-) to Rs.25,000/-. The amount granted towards bystander's expenses is only Rs.2,500/-. The appellant had undergone 23 days of inpatient treatment. Reckoning Rs.200/- per day, he will be entitled to a sum of Rs.4,600/- for 23 days. Towards loss of amenities, the Tribunal has awarded only a sum of Rs.10,000/-. In the light of the fact that the appellant will not be able to enjoy the normal amenities of his life as before the accident which occurred at the age of 22 years, we enhance the same to Rs.25,000/-.

5. Accordingly we modify the compensation as follows:

<i>Sl.No.</i>	<i>Description</i>	<i>Amt.</i>
1	Expense for transportation	Rs. 2,000.00
2	Expense for extra nourishment	Rs. 2,000.00
3	Damages to clothing and articles	Rs.500.00
4	Expense for treatment	Rs. 66,100.00
5	Expense for bystander	Rs. 4,600.00
6	Compensation for pain and suffering	Rs. 25,000.00
7	Compensation for loss of amenities	Rs. 25,000.00

<i>Sl.No.</i>	<i>Description</i>	<i>Amt.</i>
8	Compensation for disability	Rs. 51,840.00
9	Expense for future treatment	Rs. 8,000.00
10	Diminution in marriage prospects	Rs. 30,000.00
	Total	Rs.2,15,040.00 round off to Rs.2,15,000.00

[Rupees Two lakhs Fifteen thousand only]

Accordingly the appellant will be entitled to a total compensation of Rs.2,15,000/- (Rupees Two lakhs fifteen thousand only) and the enhanced amount will carry interest @9% per annum from the date of petition. There will be a direction to the Insurance Company to deposit the amount (less the amount if any already paid) within three months and on such deposit being made, the claimant can withdraw the amount.

The appeal is allowed accordingly. The parties will bear their respective costs in this appeal.

Sd/-

T.R.RAMACHANDRAN NAIR
Judge

Sd/-

P.VASHA
Judge

rtr/

/true copy/

P.S to Judge