

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

MACA.No. 2533 of 2010 ()

AGAINST THE AWARD IN OPMV 687/2004 of MACT,TRIVANDRUM
DATED 30-06-2010

APPELLANT/PETITIONER:

K.J.SARAMMA, D/O JOSEPH JON,
T.C.12/1241, KUNNUKUZHI WARD, VANCHIYOOR VILLAGE
THIRUVANANTHAPURAM.

BY ADVS.SRI.P.R.SREEJITH
SRI.M.PROMODH KUMAR
SRI.ABOOBACKER.K

RESPONDENT(S)/RESPONDENTS:

1. A.RAMANATHAN,
THAYAMAL GARDENS, EAST PUTHERR, NAGARCOIL(PO)
KANNYAKUMARI DIST., THAMILNADU.
(R.C.OWNER AND DRIVER OF TOYOTA QUALIS CAR NO.
TN.74.H.1000).

2. THE NATIONAL INSURANCE COMPANY LTD.,
112-NORTH CAR STREET, NAGARCOIL, THAMILNADU-629001.

R,R2 BY ADV. SRI.MATHEWS JACOB (SR.)
R,R2 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 27-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A No.2533 of 2010-A

Dated this the 27th day of March, 2015

JUDGMENT

Asha, J.

The appellant sustained fracture of her arm in an accident which occurred on 3.10.2003 while she was riding her Scooter. She was knocked down by a car which came from behind. She was immediately taken to the Medical College Hospital, Trivandrum. She underwent inpatient treatment for a period of 15 days.

2. The claim petition was filed seeking compensation to the tune of Rs.3 lakhs. The Tribunal awarded a sum of Rs.59,450/-. This appeal is filed seeking enhancement in the compensation.

3. We heard the learned counsel appearing for the appellant as well as the learned Senior Counsel for the Insurance Company. The learned counsel for the Insurance Company opposed the claim for enhancement on the ground that the compensation already awarded is reasonable and just.

4. It is seen that the appellant had undergone two surgeries and she underwent inpatient treatment in the years

2003 as well as 2005. Having regard to the discomfort and inconvenience that would have caused to her on account of the fracture sustained to the bones of arms, we enhance the compensation under the head of pain and suffering to Rs.30,000/-.

5. The Tribunal has found that the disability assessed was temporary disability and therefore reckoned 5% as her disability and awarded an amount of Rs.27,000/- towards permanent disability adopting a multiplier of 18. But we find that the appellant was aged 26 years and the proper multiplier to be adopted is 17. Therefore the compensation under the head 'disability' will come to Rs.25,000/-, instead of Rs.27,000/- granted by the Tribunal. The Tribunal has awarded bystander's expenses as Rs.1,500/- @ Rs.100/- per day, we enhance the same to Rs.3,000/-, ie. @ Rs.200/- per day.

6. The appellant has produced copies of medical bills indicating further expenditure incurred by her for the treatment. The amount covered by the bills - 13 in numbers, which are marked as Annexures 1 and 2 in this appeal in I.A.No.3265/2010, will come to Rs.14,086.73. These bills are on the basis of the reference card issued by the Kozhikode District Co-operative

Hospital. According to the appellant, she had to undergo one more surgery in the year 2009 on account of the accident occurred. In the light of these circumstances, we award Rs.14,100/- towards medical expenses as against the medical bills produced. In addition to that, we award a sum of Rs.10,000/- towards loss of amenities in the place of Rs.5,000/- awarded by the Tribunal.

7. Accordingly the award passed by the Tribunal is modified as follows:

<i>Sl.No.</i>	<i>Description</i>	<i>Amt.</i>
1	Medical and miscellaneous expenses	Rs.14,100.00
2	Transportation to hospital	Rs. 2,100.00
3	Bystander's expenses	Rs. 3,000.00
4	Extra nourishment	Rs. 2,000.00
5	Damage to clothing	Rs. 250.00
6	Compensation for pain and suffering	Rs. 30,000.00
7	Compensation for continuing disability	Rs. 25,000.00
8	Compensation for loss of amenities	Rs. 10,000.00
	Total	Rs. 86,450.00

[Rupees Eighty six thousand four hundred fifty only]

8. Accordingly the appellant is entitled to a total compensation of Rs.86,450/- (Rupees Eighty six thousand four hundred fifty 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 from the date of receipt of a copy of this judgment 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