

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

MACA.No. 3163 of 2009 ()

OPMV 794/1999 of ADDL.MACT (ADDL. DISTRICT & SESSIONS JUDGE-II),
MAVELIKKARA

APPELLANT(S)/PETITIONER:

KANNAN, KUMARAPURAM, CHENNAMKARY,
EAST KAINAKRY P.O., NOW RESIDING AT, VAZHAPPALLIL
CHUNAKKARA P.O., CHUNAKKARA.

BY ADV. SRI.S.MOHANAN

RESPONDENT(S)/RESPONDENTS:

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1. MOHAMMED ISMAIL
AMC 23, ALAPPUZHA.
 2. KSRTC REPRESENTED BY ITS MANAGING
DIRECTOR, THIRUVANANTHAPURAM.

R2 BY ADV. SRI.BABU JOSEPH KURUVATHAZHA,SC,KSRTC

R2 BY ADV. SRI.JOY GEORGE, SC, K.S.R.T.C.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.3163 of 2009

Dated 15th January, 2015.

J U D G M E N T

The claimant in a proceeding for compensation before the Motor Accident Claims Tribunal has come up in this appeal challenging the quantum of compensation granted to him.

2. The claimant was a student aged 18 years at the time of the accident. The accident took place on 29.10.1998. According to him, he sustained injuries on his head in the accident. A sum of Rs.88,000/- was claimed in the proceedings by way of compensation.

3. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled only for a sum of Rs.29,450/- and an award for the said amount was accordingly passed. As stated above, it is aggrieved by the said award, the claimant has come up in this appeal.

4. Ext.A4 is the wound certificate issued to the claimant from the Medical College Hospital, Alappuzha. It is recited in Ext.A4 that the complaint of the claimant at the time of examination was “vomiting (projectile)” with the history of

loss of consciousness for three minutes. Ext.A5 is the discharge card issued to the claimant from the Medical College Hospital, Alappuzha, in which it is stated that Neurosurgery consultation was done for the claimant, and the C.T.scan taken on the claimant showed hemorrhagic contusion at the infero lateral aspect of the base of left frontal lobe with minimal sub-arachnoid hemorrhage left lobe. It is also stated in Ext.A5 that the claimant was treated with anti oedema and antibiotics and he was transferred to Neurosurgery Department since there were neurological problems for him. Ext.A6 series are the O.P. tickets issued from the Medical College Hospital, Alappuzha. It is revealed from Ext.A6 series that the claimant was suffering from cranial trauma, a persistent head ache, but no vomiting. Ext.A10 is the discharge summary issued from the Department of Neurosurgery, Medical College Hospital, Alappuzha, in which it is stated that the claimant was having hemorrhagic contusion infero lateral aspect of left frontal lobe, mild subarachnoid hemorrhage left side. Ext.A10 shows that the claimant was in the Intensive Care Unit for 10 days and he has undergone inpatient treatment for 15 days. Despite the aforesaid materials, the Tribunal had granted only a sum of Rs.800/-

towards transport to hospital and Rs.800/- towards extra nourishment. Likewise, the Tribunal had granted only a sum of Rs.750/- towards bystanders' expenses. The compensation granted for pain and sufferings is Rs.13,000/- and the compensation granted for continuing permanent disability is Rs.8,000/-. Likewise, only a sum of Rs.3,000/- was granted by way of compensation for loss of enjoyment and amenities in life. It is accordingly, the Tribunal had arrived at the total compensation payable to the claimant at Rs.29,450/-.

5. According to me, in the nature of the injuries sustained by the claimant and the treatment undergone by him, including treatment in the Intensive Care Unit, the compensation granted to the claimant was inadequate on almost all heads. Taking into consideration the totality of the facts and circumstances, I fix the compensation payable to the claimant for transport to hospital at Rs.1,500/-, the compensation payable to him for extra-nourishment at Rs.1,500/-, the compensation payable to him for bystanders' expenses at Rs.3,000/- and the compensation payable to him for pain and sufferings at Rs.25,000/-. As observed earlier, the Tribunal had granted only a sum of Rs.3,000/- for loss of

enjoyment and amenities in life. I feel that the claimant is entitled to a decent compensation for loss of enjoyment and amenities in life as well, which I fix at Rs.10,000/-.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal to the appellant is enhanced from Rs.29,450/- to Rs.52,100/-. Needless to say, the claimant will be entitled to interest for the enhanced compensation also at the same rate at which the interest was granted by the Tribunal for the compensation awarded.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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