IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

MACA.No. 2031 of 2008 (F)

AGAINST THE AWARD IN OPMV 1558/2003 of M.A.C.T.,KOZHIKODE
DATED 15-11-2007

APPELLANT/PETITIONER:

SHAHILDAS,AGED 15 YEARS,
SON OF DASAN, UNIKOTU HOUSE, PERUMTHADI PARAMBA
OLAVANNA POST, KOZHIKODE.

[The appellant is a minor and is represented by his father Dasan.]

BY ADVS. SRI.JACOB ABRAHAM
SMT.KOCHUMOL KODUVATH

RESPONDENTS/RESPONDENTS:
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1. ABDUL RASHEED,AGED 30 YEARS,
SON OF MAMMAD KOYA, THARAMMAL VEEDU, KAMMILI PARAMBA
OLAVANNA POST, KOZHIKODE.

2. THE NEW INDIA ASSURANCE CO.LTD.,
OPPOSITE Y.M.C.A., KOZHIKODE.

R2 BY ADV. SRI.RENIL ANTO KANDAMKULATHY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 19-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P. R. RAMACHANDRA MENON
&
BABU MATHEW P. JOSEPH, JJ.

M. A. C. A. No.2031 of 2008

Dated this the 19th day of August, 2015

JUDGMENT

P. R. Ramachandra Menon, J.

The appellant herein was a minor boy aged nine years, when he got involved in a road traffic accident occurred on 06/01/2003. The injured was walking along the side of the road, when an autorickshaw bearing registration No.KL-11-M-2857 came and knocked him down, which resulted in nasal bleeding, apart from some lacerated wound on the forehead. The injuries resulted in some adverse consequences. The appellant filed a claim petition before the Tribunal as O.P.(MV) No.1558 of 2003 claiming a total compensation of ₹ 2 lakhs. The claim was sought to be resisted from the part of the Insurance Company. The first respondent herein was the owner-cum-driver of the said autorickshaw. The policy was admitted. No oral evidence was adduced by either side. Documentary evidence adduced on the side of the appellant/petitioner consists of Exts.A1 to A13. Copy of the Medical Board Report was marked as Ext.C1. No documents were produced from the part of the Insurance Company. On completion of evidence, the Tribunal arrived at a finding that the motor accident was occurred on account of the rash and negligent driving of the autorickshaw owned and driven by the first respondent and insured with the second respondent.

2. Considering the nature of the injuries and the resultant consequences, on the basis of the materials available on record, the Tribunal awarded amounts under various heads coming to a total of ₹18,248/-. The amounts awarded by the Tribunal in respect of the different heads are as given below:

		(in ₹)
Medical bills	-	2,748/-
Incidental charges	-	2,000/-

Pain and suffering	-	8,000/-
Loss of amenity	-	3,000/-
Loss of school days	-	2,000/-
Transportation	-	500/-

Total	-	18,248/-
		=====

The said amount was directed to be satisfied with interest at the rate of 7.5% per annum from the date of the original petition. This is sought to be enhanced by filing the present appeal.

3. Heard the learned counsel for the appellant and the learned counsel appearing for the Insurance Company.

4. Learned counsel for the appellant submits that in spite of production of the certificate issued by the Medical Board, the same was not properly appreciated by the Tribunal. According to the learned counsel for the appellant, there is permanent disability to the tune of 10%. But no amount has been awarded in respect of the disability.

Similarly, the amounts awarded by the Tribunal under various heads are stated as abysmally low and without any regard to the actual facts and figures.

5. After hearing both the sides, also considering the nature and extent of injuries, particularly involvement of fracture to the frontal bone with an inward displacement and also considering the fact that the injured was a minor boy who has to pursue his studies and compete with others to secure his livelihood, we feel that the injuries would turn to be a bar or hurdle in achieving the goal at least to some extent. We find that this requires to be compensated; more so when the finding with regard to the fixation of negligence and existence of valid insurance policy stands admitted. Considering the fact that the pain and suffering has been compensated only to the extent of ₹8,000/-, we grant a further amount of **₹7,000/-** under this head. Similarly, the loss of amenities satisfied is only to the extent of ₹3,000/- which we enhance to ₹10,000/- resulting in a balance figure

of **₹7,000/-**. However, considering the serious nature of injuries and the permanent disability that has been resulted, we find it fit and proper to grant a compensation of **₹25,000/-** to the appellant. Thus, a total balance amount of **₹39,000/-** (Rupees thirtynine thousand only) is payable to the appellant, which is ordered to be satisfied with interest at 9% per annum from 23/6/2003 till the same is satisfied. We direct the Insurance Company to have the same deposited before the Tribunal within one month from the date of receipt of a copy of this judgment.

The appeal stands allowed to the above extent.

Sd/-
P. R. RAMACHANDRA MENON
JUDGE

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

kns/-

//TRUE COPY//

P.A. TO JUDGE