

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. 2044 of 2008 (F)

AGAINST THE AWARD IN OPMV 2632/2002 of M.A.C.T.,KOZHIKODE
DATED 17-12-2007

APPELLANT/PETITIONER:

K.PREMADASAN, AGED 50 YEARS,
S/O.PADMANABHAN NAIR, KUZHIKANDATHIL HOUSE
P.O.PANTHEERANKAVU, KOZHIKODE-673619.

BY ADVS. SRI.JACOB ABRAHAM
SMT.KOCHUMOL KODUVATH

RESPONDENTS/RESPONDENTS:

1. B.RAJAN, AGED 50 YEARS, S/O.BHASKARAN,
OLIVE HOUSE, E.S.I.HOSPITAL, NALLUR AMSOM AND
DESOM, FEROKE, KOZHIKODE.

2. THE BRANCH MANAGER, UNITED INDIA
INSURANCE CO.LTD, DIVISIONAL OFFICE, NO.II
P.B.NO.192, SEEMA TOWERS, MAVOOR ROAD
KOZHIKODE.

R2 BY ADV. SRI.SIBY MATHEW
R2 BY ADV. SRI.PHILIP J.VETTICKATTU
R2 BY ADV. SRI.S.ARUN RAJ

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.2044 of 2008

Dated this the 19th day of August, 2015

JUDGMENT

Babu Mathew P. Joseph, J.

The appellant sustained serious injuries in a motor accident that occurred on 02-04-2002 involving a motorcycle by which he was travelling as a pillion rider and a car owned and driven by the first respondent and insured with the second respondent. He has filed a petition before the Motor Accidents Claims Tribunal, Kozhikode, claiming compensation on account of the injuries suffered by him in the accident. The learned Tribunal, after considering the matter, found that the accident had occurred due to the negligence on the part of the first respondent and awarded a total amount of ₹30,500/- under various heads as follows:

Medical bills (₹6,772/- rounded)	-	₹ 7,000/-
Incidental charges	-	₹ 2,000/-

Pain and suffering	-	₹ 10,000/-
Loss of amenities	-	₹ 3,000/-
Loss of income	-	₹ 8,000/-
Transportation	-	₹ 500/-

		₹ 30,500/-
		=====

The second respondent Insurance Company was directed to deposit the amount. Dissatisfied with the quantum of compensation awarded by the learned Tribunal, the appellant has preferred this appeal.

2. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the second respondent Insurance Company. Since the insurance cover for the car remains admitted, notice to the first respondent is dispensed with.

3. The appellant sustained Grade-I open fracture of both the bones of his left leg and fracture of his maxilla in the accident. He was treated with open reduction and internal fixation by implanting K-nail. Long leg cast was also

applied. Dental consultation was done for facial injury. He has undergone 11 days inpatient treatment and continued long period of outpatient treatment. Later, the implant was removed by surgical procedure. He was aged 45 years at the time of accident. He was then working as a Junior Accounts Assistant at the Steel Complex Limited, Cheruvannur, earning a monthly salary of ₹6,422.10/-. He has availed of ESI leave from 02-04-2002 to 12-03-2003 including 11 paid holidays in connection with his treatment for the injuries suffered in the accident. On considering the nature of the injuries as well as the nature of the treatment, we find that the compensation of ₹10,000/- awarded under the head of pain and suffering is palpably low. Therefore, we enhance the same to ₹25,000/-. The incidental charges of ₹2,000/- awarded is enhanced to ₹5,000/-. The Tribunal has awarded an amount of ₹8,000/- towards loss of income. We have already adverted to the long period of ESI leave availed of by the appellant. Considering the same, we award an

amount of ₹20,000/- in addition to ₹8,000/- awarded by the Tribunal. ₹500/- awarded towards transportation is also enhanced to ₹1,500/-. The appellant has no case that he could not continue his work at the Steel Complex Ltd., Cheruvannur, as a result of the accident. He has continued his work and earned income. But, the fact remains that as a result of the serious nature of the fractures suffered by him in the accident, he would have suffered some permanent disability. This fact can be accepted, even without a certificate, going by the nature of the injuries suffered. On considering that fact, we award an amount of ₹15,000/- under that head. The amount of ₹3,000/- allowed under the head of loss of amenities is on the lower side. Therefore, we enhance the same to ₹11,000/-. Thus, the appellant is entitled to an additional compensation of ₹62,500/- (Rupees sixtytwo thousand and five hundred only) over and above the amount awarded by the Tribunal. This additional amount of ₹62,500/- shall carry interest at the rate of 9% per annum

from today till realisation.

4. This appeal is allowed in part as above. The registry is directed to return the records to the Tribunal without delay.

Sd/-

P. R. RAMACHANDRA MENON
JUDGE

Sd/-

BABU MATHEW P. JOSEPH
JUDGE

kns/-

//TRUE COPY//

P.A. TO JUDGE