

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH**

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

MACA.No. 2059 of 2008 ()

**-----
AGAINST THE AWARD IN O.P.(M.V.)1246/2002 OF IIND ADDITIONAL MOTOR ACCIDENTS
CLAIMS TRIBUNAL, KOLLAM**

APPELLANT/PETITIONER::

**-----
VENUGOPAL, S/O.DAMODARAN,
CHITHRALAYAM, MANGADU, MANGADU VILLAGE
KOLLAM.**

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS/RESPONDENTS::

-
- 1. THE MANAGING DIRECTOR, KSRTC,
THIRUVANANTHAPURAM.**
 - 2. MARTIN GEORGE, C/O. MANAGING DIRECTOR
KSRTC, THIRUVANANTHAPURAM.**
 - 3. THE NATIONAL INSURANCE CO. LTD.,
THIRUVANANTHAPURAM, VAZHUTHACAUD.**

**R3 BY ADVS. SRI. MATHEWS JACOB (SR.)
SRI.JACOB MATHEW P.**

**R1 BY ADVS. SRI.K.PRABHAKARAN, SC, K.S.R.T.C.
SRI.BABU JOSEPH KURUVATHAZHA,SC,KSRTC
SRI.JOY GEORGE, SC, K.S.R.T.C.**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
28-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

T.R. RAMACHANDRAN NAIR & K.P. JYOTHINDRANATH, JJ.

M.A.C.A. No.2059 of 2008

Dated this the 28th day of May, 2015

J U D G M E N T

K.P. Jyothindranath, J.

This appeal is preferred against the award dated 7.3.2008 in O.P.(M.V.) No.1246/2002 on the file of the IInd Additional Motor Accidents Claims Tribunal, Kollam. The appellant is the petitioner in the above claim petition. He sustained injuries in a motor vehicle accident occurred on 22.02.2001 at 7.30. a.m., while he was travelling from Kollam to Ernakulam in a KSRTC bus. When the bus reached near Kaduvankulangara in Karuvatta, the shaft of the bus had broken and hit the platform and thereby penetrating the platform caused serious injuries to the left foot of the appellant/petitioner.

2. It is alleged that the accident occurred due to the rash and negligent driving of the bus. A total compensation

of Rs.31,320/- was awarded by the Tribunal. Alleging inadequacy of compensation, this appeal preferred.

3. When the appeal came up for hearing, the counsel for the appellant submitted before us that the appellant sustained very grievous injuries. It is also the submission that the appellant/petitioner produced the certified copy of the accident register - cum - wound certificate which is marked as Ext.A6 before the Tribunal, which will show that he sustained injuries on the left foot. He also produced the referral O.P. Cards issued from the Medical College Hospital, Thiruvananthapuram. He was treated as inpatient for fracture of left calcaneum from 22.02.2001 to 3.3.2001. He was discharged from the hospital with advise for review after a week. It is the case of appellant that he was reviewed at the hospital on 8.3.2001, 4.4.2001, 5.4.2001, 18.4.2001, 19.4.2001 and 31.05.2001 as well as on 12.7.2001 and 16.8.2001.

4. It is the case of the appellant that he is having ailments even now and he produced Ext.A9, a certificate

issued by an ayurvedic doctor certifying that the appellant was undergoing treatment from 10.9.2001 to 12.9.2001 and for further treatment Rs.16,500/- is also necessary. The appellant had produced a disability certificate issued by a doctor. The doctor who issued the same is an Assistant Professor in Orthopaedic, Medical College, Thiruvananthapuram. As per the said document the permanent disability is assessed as 16%. The case of the appellant is that he was working as a manager in a Coir factory as well as doing textile business and earning a monthly income of Rs.10,000/- It is the submission of the learned counsel that the amount awarded is inadequate.

5. After going through the documents produced and also considering the submissions made in the bar, it is found that a refixation of compensation is necessary. Thus the amounts awarded by the Tribunal is refixed as follows:

Head of claim	Amount awarded in rupees
Loss of earning	3000 x 3 9000
Transportation to hospital	2000

Head of claim	Amount awarded in rupees
Extra nourishment	2000
Damage to clothing	500
Medical expenses	5000
Bystander's expenses	200 x 8 1600
Pain and suffering	15000
Permanent disability	3000x 12 x 15 x 8/100 43200
Loss of amenities	10000
Total	88300 (Eighty eight thousand three hundred only)

The appellant is entitled to get a total amount of Rs.88,300/- (Rupees Eighty eight thousand three hundred only) as just compensation in this case. The enhanced compensation will carry interest at the rate of 9% from the date of petition till realisation. There will be a direction to the Insurance Company to deposit the amount of compensation, less the amount already deposited, before the Tribunal within a period of three months and we permit the claimant to withdraw the amount when the amount is deposited by the Insurance Company.

The appeal is accordingly allowed. There will be no order as to costs in the appeal.

Sd/-

**T.R. RAMACHANDRAN NAIR
JUDGE**

Sd/-

**K.P. JYOTHINDRANATH
JUDGE**

shg/