

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

MACA.No. 2376 of 2008 ()

AGAINST THE AWARD IN OPMV 885/2003 of MACT ALAPPUZHA DATED 14-01-2008
APPELLANT(S)/PETITIONER.:

MAHENDRA SINGH @ MAHENDRAN, S/O.KANHAI
SINGH, MADHAVATHU VELIYIL, MAYITHARA MARKET P.O.
CHERTHALA.

BY ADV. SRIR.AZAD BABU

RESPONDENT/RESPONDENTS.:

1. REGIYA ASHRAF, W/O.M.M.ASHRAF,
T.C.NO.24/459-5, JAYASREE APARTMENTS, THYCADU
THRIUVANANTHAPURAM.

2. THE UNITED INDIA INSURANCE CO.LTD,
NEAR BUS STAND, ATTINGAL.

R,R2 BY ADV. SRI.A.R.GEORGE

R,R1 BY ADV. SRI.M.M.HUSAIN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.2376 of 2008

Dated this the 2nd day of June, 2015

JUDGMENT

Ramachandran Nair, J.

In this appeal the appellant seeks enhancement of compensation. He suffered the accident on 23.5.2000 at 6.15 p.m. while travelling as a pillion rider in a motor cycle along Alappuzha-Ernakulam N.H.47. The accident occurred near Cherthala Railway Station when the motor cycle was hit by a tata sumo bearing Reg. No.KL-01/Q 1377 which was coming from the opposite direction.

2. The appellant had compound fracture of right patella and pain on the left hip. It is seen from the award that patellectomy was done. The Tribunal granted a total amount of Rs.31,250/- as against the claim for Rs.1,41,000/-.

3. Heard learned counsel on both sides.

4. It is submitted by the learned counsel for the appellant that the Tribunal did not pass any order in the application submitted for

examination by a Medical Board. Actually there is disability because of patellectomy. It is submitted that he was working as a welder and he cannot perform his duties as a welder as before in view of the disability sustained.

5. Learned counsel for the insurance company submitted that the amount awarded is justified.

6. The Tribunal has granted a sum of Rs.10,000/- for pain and suffering, Rs.8,000/- for loss of amenities and enjoyment in life and for present inconvenience an amount of Rs.5,000/- has been granted.

7. After hearing both sides, and in the light of the evidence that he had suffered compound fracture, we are also of the view that it will cause inconvenience and discomfort to him. We enhance the compensation for pain and suffering to Rs.20,000/- from Rs.10,000/-, loss of amenities and enjoyment in life to Rs.25,000/- from Rs.8,000/- and for the present inconvenience to Rs.8,000/- from Rs.5,000/- awarded by the Tribunal. Accordingly, we grant a further amount of Rs.30,000/-, while sustaining compensation granted under other heads.

Therefore, the total amount of compensation will be Rs.61,250/-.

The enhanced amount of compensation will carry interest at 9% per annum from the date of petition and we direct the insurance company to deposit the amount less the amount already deposited before the Tribunal, within a period of three months. On such deposit being made, the appellant is permitted to withdraw the same.

The appeal is allowed as above. The parties will suffer their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(K.P. JYOTHINDRANATH,, JUDGE.)

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