IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

MACA.No. 3087 of 2008 ( )

AGAINST THE AWARD IN OP(MV) 1708/2003 OF PRINCIPAL MOTOR ACCIDENTS CLAIMS TRIBUNAL,KOZHIKODE DATED 10-07-2008

APPELLANT/PETITIONER IN O.P.(M.V.):

UNNIKRISHNAN, S/O.ARIYAN,
AGED 23 YEARS, RESIDING AT MOONU CENT COLONY, KANAPPANKUNDU
P.O.MAILALLAMPARA, VIA. THAMARASSERY, KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS/RESPONDENTS IN O.P.(M.V.):
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1. V.P.MUHAMMED,
S/O.POCKERKUTTY, RESIDING AT VALIYAPARAMBATH HOUSE
PARAPPANPOYIL, THAMARASSERY.

*** 2. NOUFAL A.M., S/O.MUHAMMED A.K.,**
AGED 28 YEARS, RESIDING AT AMBAYATHODI HOUSE
P.O.THAMARASSERY. [DELETED]

***[RESPONDENT NO.2 IS DELETED FROM THE ARRAY OF PARTIES AT THE APPELLANT'S RISK VIDE ORDER DATED 1.6.2015 IN I.A.743/2015 IN MACA 3087/2008]**

3. UNITED INDIA INSURANCE COMPANY LTD.,
BRANCH OFFICE, VELIMANNA BUILDING, MAIN ROAD
THAMARASSERY.

R3 BY ADV. SMT.P.K.SANTHAMMA

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 29-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

shg/

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

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M.A.C.A.No.3087 of 2008

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Dated this the 29th day of June, 2015

J U D G M E N T

Ramachandran Nair, J.

The injured appellant is the claimant. As against a claim of Rs.2 lakhs what is awarded by the Tribunal is only Rs.18,200/-. This is on the assumption that he has been properly cured after the hospitalisation. He was aged 18½ years at the time of accident and was working as a head load worker. The accident occurred on 17.4.2003 while he was travelling as a pillion rider on a bicycle and it was hit by an autorickshaw. He was treated in the Medical College Hospital, Calicut for a period of 30 days going by the award.

2. It is clear from the wound certificate Ext.A2 that he had sustained depressed fracture on right parietal region and affecting the brain matter. CT scan was done also. Of course no disability certificate has been produced by the appellant.

3. Learned counsel for the appellant submitted that

C.T. Scan report will show that a neurosurgical procedure was taken and a part of the skull is removed to allow a swelling brain room to expand without being squeezed. A copy of the report was produced for perusal and the report confirms the same. Craniectomy was done. Even though there is no disability certificate issued by a Medical Board since the injury sustained is to the head affecting brain and being a head load worker there will be functional disability for him. Therefore we adopt 10% as the disability which has to be compensated.

4. After hearing learned counsel on both sides on various aspects, we are of the view that the appellant will be entitled for enhancement of the amount of compensation. For fixing the compensation we adopt Rs.3,500/- as monthly income being a head load worker. Since the injuries were serious and the period of treatment is 30 days he is entitled for more amount towards pain and suffering and as a result of the injuries and difficulties he will be entitled for sufficient compensation for loss of amenities and

inconvenience. We also award Rs.200/- per day for 30 days for bystander's expenses also. Accordingly, we re-fix the compensation in the following manner:

Head of Claim	Amount awarded in Rs.
Permanent disability	3500x12x18x10/100 75600
Bystander's expenses	30x200 6000
Extra nourishment	3000
Partial loss of earning	2 monthsx3500 7000
Transportation	2000
Damage to clothing	1000
Pain and suffering	30000
Loss of amenities	30000
Total	**1,54,600** **(Rupees one lakh fifty four thousand six hundred only)**

The enhanced compensation will carry interest at the rate of 9% from the date of petition till realisation.

The Insurance Company has been found liable to satisfy the award, which finding we confirm.

There will be a direction to the Insurance Company to deposit the amount of compensation, with interest less the amount already deposited, before the Tribunal within a

period of three months and we permit the claimant to withdraw the amount after the same 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

//True copy//

P.A. TO JUDGE

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