

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

OP (MAC).No. 153 of 2015 (O)

**AGAINST THE ORDER IN IA NO. 3875/2015 IN OP(MV) NO. 737/2015
OF MOTOR ACCIDENT CLAIMS TRIBUNAL, THALASSERY DATED 26-09-2015**

PETITIONER/PETITIONER :

**MOHAMMED ASHIR ABDULLA @ MOHAMMED ASHIR,
S/O.ABDULLA K., AGED 20 YEARS, ZANOUBYS, KAVINMOOLA
MAMBA P.O., KANNUR TALUK, KANNUR DISTRICT
PIN-670 611
NOW IN COMA STAGE THROUGH HIS FATHER & GUARDIAN
ABDULLA K., AGED 48 YEARS, ZANOUBYS, KAVINMOOLA
MAMBA P.O., KANNUR TALUK, KANNUR DISTRICT
PIN-670 611.**

**BY ADVS.SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH**

RESPONDENTS/RESPONDENTS :

- 1. KRISHNAN M.,
S/O.BALAN, AGED 39 YEARS, MANHERI VEEDU, KUTTAVU
PERUVALATHUPARAMBA P.O., TALIPARAMBA, KANNUR DISTRICT
PIN-670 593.**
- 2. DAMODARAN P.,
S/O.RAGHAVAN, VANNATHANKANDY, KUTTAV
IRIKKUR, PERUVALATHUPARAMBA,
KANNUR DISTRICT-670593.**
- 3. NATIONAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE, BANK ROAD, KANNUR-670 001.**

**R3 BY ADVS. SRI.M.A.GEORGE, SC
SRI.S.K.AJAY KUMAR**

**THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 04-12-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

OP (MAC).No. 153 of 2015 (O)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1 TRUE COPY OF THE APPLICATION DATED 10.07.2015 FILED BY THE CLAIMANT THROUGH HIS FATHER IN OP(MV).737/2015 BEFORE THE MOTOR ACCIDENT CLAIM TRIBUNAL, THALASSERY.
- EXT. P2 TRUE COPY OF THE APPLICATION ALONGWITH LIST OF DOCUMENT DATED 10.07.2015 IN I.A. NO.3875/2015 IN OP(MV) NO.737/2015 BEFORE THE MOTOR ACCIDENT CLAIM TRIBUNAL, THALASSERY.
- EXT. P3 TRUE COPY OF THE ORDER DATED 26.09.2015 IN I.A.3875/2015 IN OP(MV)NO.737/2015 BEFORE THE MOTOR ACCIDENT CLAIM TRIBUNAL, THALASSERY.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

K. HARILAL, J.

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O.P. (MAC) No. 153 of 2015

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Dated this the 4th day of December, 2015

J U D G M E N T

Petitioner is the claimant, represented by his father, in O.P(M.V.) No. 737 of 2015, on the files of the Motor Accident Claims Tribunal, Thalassery. The above Original Petition was filed under Section 166 of the Motor Vehicle Act, 1988 (*hereinafter referred to as 'the M.V. Act'*), claiming compensation for the injuries suffered by him in a road traffic accident. He claimed an amount of Rs.1,25,00,000/-, as compensation. Thereafter, the petitioner filed an application under Section 140 of the M.V. Act, for an interim award of Rs.20,00,000/-. The Tribunal after considering the said application, passed interim award granting Rs.25,000/- to the petitioner. This O.P.(MAC) is filed challenging the inadequacy of the

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quantum of interim award passed by the Tribunal under Section 140 of the M.V. Act.

2. Heard the learned counsel for the petitioner and learned Standing Counsel appearing for the respondent Insurance Company.

3. The short point that arises for consideration in this O.P.(MAC) is, whether the Tribunal is justified in limiting the interim award to Rs.25,000/-.

4. It is the case of the petitioner that as of now, the petitioner had spent an amount of Rs.1,37,903/- for treatment. According to the petitioner, being a social welfare legislation, the Tribunal ought to have taken a lenient view on Ext.P1 application by granting an amount of Rs.20,00,000/- as claimed by the petitioner, particularly when the total amount claimed is Rs.1,25,00,000/-. Going by the statutory mandate under Section 142 of the M.V. Act, the amount of

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compensation, which can be payable under Section 140(1) by applying the principles of no fault liability in respect of permanent disablement of any person shall be a fixed sum of Rs.25,000/- only. When the concerned provision specifically limited the maximum amount that can be given under Section 140(1) of the M.V. Act, at Rs.25,000/- the Tribunal is justified in granting Rs.25,000/- to the petitioner and I do not find any kind of illegality or impropriety in the determination of the amount due under Section 140(1) of the M.V. Act.

Hence, this O.P.(MAC) stands dismissed.

Sd/-

**K. HARILAL,
JUDGE**

DST

//True copy//

P.A. To Judge