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IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

MACA NO. 1014 OF 2021

AGAINST THE AWARD DATED 13.02.2020 IN OPMV NO.45 OF 2018 OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL,WAYANAD,KALPETTA

APPELLANT/PETITIONER:

KAMALA
AGED 63 YEARS
W/O. APPU KADACHIKUNNU COLONY, RIPPON, MUPPAINADU VILLAGE, MEPPADY, VYTHIRI TALUK, WAYANAD 673 577.

BY ADVS.
TONY THOMAS (INCHIPARAMBIL)
SRI.E.S.FIROS

RESPONDENT/RESPONDENT:

THE UNITED INDIA INSURANCE COMPANY LIMITED BRANCH OFFICE, PINANGODE ROAD JUNCTION, MAIN ROAD, KALPETTA POST, VYTHIRI TAUK, WAYANAD 673 121. REPRESENTED BY THE BRANCH MANAGER.

BY ADV P.K.MANOJKUMAR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 10.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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EASWARAN S., J

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Dated this the 10th day of April, 2025

JUDGMENT

The appeal arises out of the award passed by the Motor Accidents Claims Tribunal, Wayanad, Kalpetta, in O.P. (MV)No.45/2018.

2. The brief facts necessary for the disposal of the appeal are as follows:

On 24.12.2016 at about 7.45 a.m., while the claimant was travelling along with other passengers in a jeep bearing Reg.No.KL-12-G-2259 driven by the driver negligently and in exceeding speed and when it reached at Thazhe Arappetta near WIMS Hospital, the vehicle swerved on seeing a car coming from the opposite direction and it capsized. The appellant, claiming to be a Coolie Worker, sustained severe injuries and hence approached the Motor Accidents Claims Tribunal. According to the appellant, who was aged 61 years at the time of accident, she was earning an amount of Rs.10,000/- per month as a

Coolie Worker. As per Ext.C1, the certificate issued by the District Medical Board, District Hospital, Mananthavady, the permanent disability is assessed at 3%. However, the Tribunal proceeded to fix the notional income of the appellant at Rs.9,000/- and granted a consolidated pay of Rs.25,000/- towards compensation for loss of amenities, considering the Disability Certificate.

3. Aggrieved by the insufficiency in the grant of compensation, the appellant has approached this Court in the present appeal.

4. Heard, Sri.Tony Thomas Inchiparambil - learned counsel appearing for the appellant and Sri.P.K.Manoj Kumar – learned counsel appearing for the Insurance Company.

5. On a consideration of the rival submissions raised across the Bar, this Court is of the considered view that the appellant is entitled to succeed.

6. As regards the notional income of the appellant is concerned, this Court finds that Tribunal has erred in fixing the same at Rs.9,000/-. Going by the principles laid down by the



Hon'ble Supreme Court in ***Angad Tiwari and Another v. National Insurance Company Ltd. and Another*** [2024 KHC 8590], this Court finds that the claimant is entitled to have the income fixed in terms of the minimum wage notified by the State of Kerala. In G.O.(P)No.28/2016/Fin. dated 26.02.2016, the State of Kerala has notified the minimum wage as Rs.16,200/-. Therefore this Court finds that an amount of Rs.16,200/- can be fixed as the notional income of the appellant.

7. No reasons are stated as to why Ext.C1 - Disability Certificate is discarded by the Tribunal. In ***Prakash Chand Sharma v. Rambabu Saini*** [2025 KHC Online 7108], the Hon'ble Supreme Court held that the Tribunal cannot discard the Disability Certificate without ordering reassessment of the injuries of the claimant. On a reading of the award, it shows that the Tribunal has discarded the disability on the ground that the disability noted by the Medical Board will not affect the earning capacity of the appellant. This Court cannot approve the aforesaid finding, since it is not within the domain of the Tribunal to conclude that the disability suffered by the appellant will not affect her earning capacity. It is precisely, in this context, that

this Court noticed above that the reassessment of the appellant ought to have been ordered by the Tribunal. In the absence of the same, this Court finds that the rejection of Ext.C1 Disability Certificate issued by the District Medical Board, District Hospital, Mananthavady, by the Tribunal is unsustainable.

Accordingly, the appeal is allowed and the appellant is entitled to enhanced compensation as follows:

Heads	**Amount awarded by the Tribunal**	**Total compensation awarded in appeal**	**Enhanced amount of compensation**
Notional income of the appellant is fixed at Rs.16,200/- The permanent disability of the appellant is restored at 3% as per Ext.C1.			
Loss of earnings	27,000	48,600/- [16200x3]	21,600/- [48600-27000]
Permanent disability	25,000/- [compensation given as loss of amenities in life]	40,824/- [16200x12x7x3/100]	15,824/- [40824-25000]
Total enhanced amount of compensation			**37,424/-**

Accordingly, the appellant/claimant is awarded an additional compensation of **Rs.37,424/-** (Rupees Thirty Seven Thousand Four Hundred Twenty Four only) over and above the compensation awarded by the Tribunal with interest @8% per annum from the date of petition till realization together with proportionate costs. The Insurance Company is directed to deposit the aforesaid amount within a period of two months from the date of receipt of a copy of

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this judgment. While, calculating interest, it is ordered that the appellant will not be entitled for interest for a period of 265 days, which represents the period of delay in filing the appeal.

The appeal is ordered accordingly.

Sd/-
EASWARAN S.
JUDGE

ACR