



2025:KER:31861

**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. 2803 OF 2021

**AGAINST THE AWARD DATED 25.06.2019 IN OPMV NO.763 OF
2016 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, KOTTAYAM**

APPELLANT/PETITIONER:

**ANISH P THOMAS
AGED 46 YEARS
S/O. JOHN, PUNAPUKATTIL (H), VELOOR P.O, PAMPADI.**

**BY ADVS.
PRAFIN JOSEPH ZACHARIA
PRASEENA ELIZABETH JOSEPH**

RESPONDENTS/RESPONDENTS:

- 1 SHERIF T YOOSUF
S/O. YOOSUF RAVUTHER, THOPPIL (H), HOSPITAL
JUNCTION , EZHUMATTOOR P.O, EZHUMATTOOR VILLAGE,
PIN 689 586**
- 2 P.M NAZAR,
KADACKAL THUNDIYIL (H), EZHUMATTOOR P.O,
MALLAPPALLY 689 586**
- 3 DIVISIONAL MANAGER
ORIENTAL INSURANCE CO.LTD, KOTTAYAM PIN 686 001**

**BY ADVS.
GEORGE A.CHERIAN
GEORGE CHERIAN (SR.)(G-81)**

**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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MACA No.2803 of 2021

.....

Dated this the 10th day of April, 2025

JUDGMENT

The appeal arises out of the award passed by the Motor Accidents Claims Tribunal, Kottayam, in O.P.(MV)No.763/2016.

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

On 08.04.2016 at about 7.45 p.m., while the appellant was walking through NH 183 from west to east, the offending vehicle bearing Reg.No.KL-28-A-7780 came in a rash and negligent manner and hit against the appellant. The appellant suffered serious injuries in the accident. The appellant claimed that he was a Sales Man and was earning an amount of Rs.10,000/- per month. As a result of the accident, the appellant suffered permanent disability of 10%, which the Tribunal applied. However, the Tribunal proceeded to fix the notional income of the



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appellant at Rs.8,000/- and granted a total compensation of Rs.4,21,855/-.

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

4. Heard, Sri.Prafin Joseph Zacharia - learned counsel appearing for the appellant and Sri.George A.Churian - 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.8,000/-. 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



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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. Under the non-conventional heads also, the appellant is entitled to a reasonable enhancement in the compensation.

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/-			
Loss of earnings	40,000/-	97,200/- [16200x6]	57,200/- [97200-40000]
Compensation for continuing or permanent disability	1,34,400/-	2,72,160/- [16200x12x14x10/100]	1,37,760/- [272160-134400]
Compensation for pain and suffering	65,000/-	80,000/-	15,000/- [80000-65000]
Loss of amenities in life	50,000/-	65,000/-	15,000/- [65000-50000]
Total enhanced amount of compensation			2,24,960/-

Accordingly, the appellant/claimant is awarded an additional compensation of **Rs.2,24,960/-** (Rupees Two Lakhs Twenty Four



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Thousand Nine Hundred Sixty only) over and above the compensation awarded by the Tribunal with interest @8.5% 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 this judgment. While, calculating interest, it is ordered that the appellant will not be entitled for interest for a period of 188 days, which represents the period of delay in filing the appeal.

The appeal is ordered accordingly.

Sd/-
EASWARAN S.
JUDGE

ACR