

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA**

FRIDAY, THE 29TH FEBRUARY 2008 / 10TH PHALGUNA 1929

MFA.No. 1127 of 2001(C)

OP(MV)709/1997 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, PALA

APPELLANT:

**BOBBY, S/O. AUGUSTINE,
MUNDOOR HOUSE,
KIZHATHADIYOOR,
NEAR K.S.R.T.C BUS STAND,
PALAD.**

BY ADV. SRI.JOSEPH SEBASTIAN PURAYIDAM

RESPONDENTS:

- 1. JOSEPH M. ELIAS,
S/O. ELIYAS,
MAZHUVANAPARAMBIL HOUSE,
AMBALAMEDU KARA,
AMBALAMEDU VILLAGE,
ERNAKULAM.**
- 2. SUNNY AUGUSTINE,
S/O. AUGUSTINE,
THEVARKUNNEL HOUSE,
KOOHATTUKULAM P.O.,
KOOHATTUKULAM KARA, VILLAGE.**
- 3. THE MANAGER, ORIENTAL INSURANCE CO. LTD.,
JOYTHI SUPER BAZAR PB NO. 8,
THODUPUZZHA.**

R3 BY ADV. SRI.M.JACOB MURICKAN

**THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 29/02/2008, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.1127 OF 2001 (C)

Dated this the 29th day of February, 2008

J U D G M E N T

KOSHY,J.

Appellant petitioner sustained injuries in an accident due to the negligence of the driver of the vehicle insured by the 3rd respondent, Insurance company. The total amount awarded by the tribunal was Rs.1,17,000/- with 9% interest from the date of application till its deposit. The compensation awarded for loss of earning power was Rs.25,000/-. Tribunal has awarded Rs.10,000/- for permanent disability. Since the compensation was not awarded taking into account percentage of disability, as requested by the claimant, we have referred him to the Medical Board constituted by Medical College Hospital, Kottayam for assessing the percentage of disability. The Medical Board certified that permanent disability is only 3%, and being a driver, considering the difficulties in driving during night, maximum disability can be given upto 10% as

the disability noticed is only occurrence of head ache as stated by the appellant. Considering the facts and circumstances of the case and considering the percentage of disability assessed by the tribunal, we are of the view that the amount awarded by the tribunal is just and reasonable and no interference is required. Hence we dismiss the appeal.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

prp

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.1127 OF 2001 (C)

J U D G M E N T

29th February, 2008