

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER
&
THE HONOURABLE MR. JUSTICE P.Q.BARKATH ALI

MONDAY, THE 28TH FEBRUARY 2011 / 9TH PHALGUNA 1932

MACA.No. 1627 of 2005()

OPMV.203/2003 of MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPALAM

APPELLANT(S): APPELLANT/PETITIONER

UNNIKRISHNAN, S/O.RAMAN MOOPPAR,
AGED 50 YEARS, KARINCHITTY THAZHATHETHIL HOUSE,
KALLUVAZHI POST, OTTAPALAM TALUK,
PALAKKAD DISTRICT.

BY ADV. SRI.O.P.NANDAKUMAR
SRI.V.A.AJAI KUMAR

RESPONDENTS/RESPONDENTS 1 TO 3

1. SURESHKUMAR, S/O.PRABHAKARAN NAIR,
AGED ABOUT 33 YEARS, MACHINGAL HOUSE,
SHORNUR POST, OTTAPALAM TALUK,
PALAKKAD DISTRICT.

2. JAYARAMAN, S/O.CHELLAN,
AGED ABOUT 34 YEARS, MANAKKALPARAMBU HOUSE,
KANNIAMPURAM POST, OTTAPALAM TALUK,
PALAKKAD DISTRICT.

3. THE NATIONAL INSURANCE COMPANY LIMITED,
PALAKKAD.

ADV. SRI.E.M.JOSEPH FOR R3
SMT.T.D.RAJALAKSHMI FOR R2
SRI.R.SREEHARI FOR R2

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 28/02/2011, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

A.K.BASHEER & P.Q.BARKATH ALI, JJ.

M.A.C.A.No.1627 OF 2005

Dated this the 28th day of February, 2011

JUDGMENT

Basheer, J.

Appellant sustained certain injuries in a road traffic accident that occurred on December 11, 2002. He claimed a total sum of Rs. 1,50,000/- as compensation from the owner, driver and insurer of the offending vehicle.

2. The Tribunal, after considering the oral and documentary evidence adduced by the appellant, awarded a sum of Rs. 80,340/- and directed the Insurance Company to pay the same with 6% interest. The appellant impugns the award contending that the amount awarded is too meagre and inadequate.

3. It is seen from the materials available on record that the appellant had suffered a crush injury on his left hand apart from various other injuries. The crush injury resulted in fracture and dislocation of the middle and ring finger and also the index finger. He lost his extensor power in the third and fourth fingers. The

Tribunal reckoned his disability as 15%, though the doctor who examined the appellant had assessed it as 30%. The Tribunal took the monthly income of the appellant as Rs.2,100/-. According to the appellant, he was employed as a skilled granite worker. Keeping in view the entire facts and circumstances, we are of the view that the notional monthly income of the appellant can be reckoned as Rs. 2,500/- and the disability compensation can be calculated as here under :

$$2500 \times 12 \times 13 \times 15\% = \text{Rs.}58,500/-$$

4. The Tribunal awarded only a sum of Rs. 4,000/- under the head of loss of amenities. In our view, that is too meagre and inadequate. Interest of justice will be met, if the said amount is enhanced to Rs. 15,000/-. We do so. The Tribunal awarded a sum of Rs.10,000/- under the head of pain and suffering. The said amount is enhanced to Rs.25,000/-. Under the head of loss of earnings, the appellant shall be entitled to get Rs. 10,000/- for four months (2500 x 4). Thus, the appellant shall be entitled to get a sum of Rs.45,360/- as enhanced compensation. Further, the appellant shall be entitled to get interest

@ 7.5% from the date of petition till the date of payment.

In all other respects, the award of the Tribunal is sustained.

A.K.BASHEER, JUDGE

P.Q.BARKATH ALI, JUDGE

SV.

