

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HON'BLE MR.JUSTICE HARUN-UL-RASHID

MONDAY, THE 31ST DAY OF DECEMBER 2012/10TH POUSHA 1934

MACA.No. 2641 of 2009 ()

OPMV.281/2005 of MACT, IRINJALAKUDA

APPELLANT/PETITIONER IN OPMV:

TONY S/O. KULANGARA KOCHAPPAN,
NEAR CHURCH, PARIYARAM VILLAG AND P.O.
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

BY ADVS.SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS/RESPONDENTS IN OPMV:

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1. JIJO JOSE, MAMMINISSERY HOUSE
PARIYARAM WEST, ERNAKULAM DISTRICT.
 2. TONY JOSEPH, S/O. KALLELY JOSEPH
PARIYARAM.P.O.
 3. THE NATIONAL INSURANCE CO. LTD.,
M.G.ROAD KOCHI.
 4. D.R.BABY 40/7383, MEENAKSHI ESTATE
RAJAJI ROAD, KOCHI.

R3 BY ADV. SRI.P.JAYASANKAR(B/O,NO MEMO)

THIS MOTOR ACCIDENTS CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 31-12-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

HARUN-UL-RASHID , J .

M.A.C.A.NO. 2641 OF 2009

DATED THIS THE 31ST DAY OF DECEMBER, 2012

JUDGMENT

Claimant is the appellant. The appeal is filed challenging the award in O.P.(MV).No.281/2005 on the file of the Motor Accidents Claims Tribunal, Irinjalakuda. The Tribunal awarded compensation of ₹29,200/-.

2. The accident occurred on 26/9/2004 while the appellant was travelling as a passenger in the Maruti car. The appellant limited his claim for ₹50,000/- as compensation. The Tribunal considered the evidence on record and held that the appellant is entitled to get an amount of ₹29,200/- as compensation with 7% interest per annum. The Tribunal relied on Ext.A3 wound certificate and Ext.A4 discharge card. The discharge card shows that the claimant was in the hospital as inpatient for two days. The Tribunal accepted Ext.A5 medical bills and vouchers and granted ₹7,250/- towards medical expenses. Considering the nature of the injuries and the probable extent and measure of pain

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and discomfort undergone by the claimant the Tribunal granted an amount of ₹10,000/- as compensation for pain and suffering and ₹5,000/- for discomfort and loss of amenities. The Tribunal also granted three months' income at the rate of ₹2,200/- per month for loss of income. The appellant contended that he sustained permanent disability and therefore he is entitled to get an amount of ₹25,000/- as compensation. The Tribunal did not go into the question of disability for want of evidence. The disability certificate and the salary certificate said to have been produced are not marked. The Doctor, who issued the certificate, was also not examined.

In the circumstances, the Tribunal is justified in granting the relief on the basis of the documents relied on by the claimant. The appeal is devoid of any merit and is accordingly dismissed.

**HARUN-UL-RASHID ,
JUDGE .**

kcv .