

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE S.S.SATHEESACHANDRAN**

**FRIDAY, THE 31ST DAY OF JANUARY 2014/11TH MAGHA, 1935**

**MACA.No. 40 of 2012**

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**AGAINST THE AWARD IN OP(MV)NO. 160/2008 OF MOTOR ACCIDENTS**  
**CLAIMS TRIBUNAL, KOLLAM DATED 11-05-2011**

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**APPELLANT(S):PETITIONER:**

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**ULLAS,**  
**AGED 36 YEARS, S/O.CHANDRASEKHARAN PILLAI,**  
**CHEPLAYIL VEEDU, NEAR CHEPLAYIL JUNCTION,**  
**ULIYACOVIL P.O., KOLLAM DISTRICT.**

**BY ADVS.SRI.C.RAJENDRAN**  
**SMT.DHANYA S.DHARAN**  
**SMT.R.S.SREEVIDYA**

**RESPONDENT(S):RESPONDENTS:**

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- 1. SUNIL,**  
**ARUN NIVAS, KADAPPAKKADA P.O., KOLLAM-691 008.**
- 2. SAJIKUMAR,**  
**S/O.SASIKUMAR, KURUPPANVEETIL, NAVAJYOTHI NAGAR NO.88,**  
**ULIYACOVIL, KOLLAM-691 019.**
- 3. THE MANAGER**  
**ORIENTAL INSURANCE CO.LTD., KOLLAM-691 001.**

**R3 BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY**  
**HEARD ON 31-01-2014, THE COURT ON THE SAME DAY DELIVERED**  
**THE FOLLOWING:**

**Kss**

**S.S.SATHEESACHANDRAN, J.**

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M.A.C.A.No.40 of 2012.  
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Dated this the 31<sup>st</sup> January, 2014.

**J U D G M E N T**

Appeal is filed by claimant in OP(MV).No.160/2008 challenging the award of Tribunal to the extent 20% of compensation determined was reduced holding that there was contributory negligence to that extent by him for the occurrence. A sum of Rs.53,400/- was assessed as compensation payable to claimant by Tribunal for injuries suffered by him in the accident on the materials placed. Occurrence took place while claimant was riding on a bicycle through a road from south to north direction. He was hit by an autorikshaw driven by second respondent. Police records prepared over the crime registered indicated that while riding bicycle he was on the wrong side of the road. Road at the spot of occurrence has a width of 8.80 meters and occurrence took place as per scene mahazar prepared by police 1.80 meters towards west from the

eastern tar end of the road. Spot of occurrence fixed by police as above would clearly show that claimant riding the bicycle from south to north was on wrong side of the road. That being taken into account, tribunal held that he had contributed for the occurrence to the extent of 20%. I do not find any impropriety in the reasoning taken by tribunal on the police records tendered when no other material was presented to hold otherwise. Claimant has not mounted the box to explain how the occurrence took place. In such circumstances 20% contributory negligence found against him by tribunal cannot be found fault with. In the occurrence it is seen claimant suffered multiple skin abrasion, lacerated wound 3x1 cm. lower hip, contusion right wrist and fracture lower end of radius. Considering the nature of injuries suffered and occupation of claimant as a screen printer, I find compensation awarded by tribunal on various counts separately, fixing a total sum of Rs.53,400/- is just and reasonable. He has been awarded 80% of compensation assessed, since he was culpable to the

**M.A.C.A.No.40/2012.**

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extent of 20% for the occurrence. He has been provided just and reasonable compensation for injuries sustained, and there is no merit in the appeal claiming enhanced compensation. Appeal is dismissed.

**Sd/-  
S.S.SATHEESACHANDRAN,  
(Judge)**

**Kvs/-**

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PA TO JUDGE.