

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

FRIDAY, THE 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

MACA.No. 2501 of 2012 ()

AGAINST THE AWARD IN OPMV 1285/2007 of M.A.C.T., ERNAKULAM DATED
03-07-2012

APPELLANT/ PETITIONER:

JAYASREE VENUGOPALAN, AGED 52 YEARS
W/O VENUGOPALAN, LAKSHMI, COCHIN PALACE P.O
THRIPOONITHURA 682301

BY ADVS.SRI.K.JANARDHANAN
SRI.K.J.MANU RAJ

RESPONDENT/3RD RESPONDENT :

THE UNITED INDIA INSURANCE CO.LTD,
CITY BRANCH OFFICE-I, VETTUKATTIL BUILDINGS
JOSE JUNCTION, M.G ROAD, ERNAKULAM, COCHIN 11

R BY ADV. SRI.P.SANKARANKUTTY NAIR
R BY SRI.JOHN JOSEPH VETTIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 31-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**T.R.RAMACHANDRAN NAIR &
K.P.JYOTHINDRANATH, JJ.**

M.A.C.A.No.2501 OF 2012

Dated this the 31st day of July, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by the claimant, who was injured in an accident which occurred on 2/03/2007 while he was travelling as a pillion rider. The offending vehicle is a mini lorry bearing Reg.No.KL-07/U 718. The total compensation granted is 1,29,006/- as against the claim of ₹ 2,59,000/-.

2. Heard the learned counsel on both sides.

3. It is the contention of the learned counsel for the appellant that the Tribunal has not properly assessed various aspects and no amount has been granted for loss of earnings even though she was incapacitated for a considerable period. It is submitted that it is a case of head injury and she was treated initially in the Lakshmi Hospital and thereafter in the Medical Trust Hospital. It is further submitted that the effect of injuries on the body is still suffered by the appellant. Therefore, the learned counsel seeks for a refixation of the compensation.

4. The learned counsel for the Insurance Company submits that assessment of damages is perfectly justified. There is no proof regarding disability and there is no certificate issued by the Medical Board also. Therefore, it is submitted that no amount can be granted towards any permanent disability. Apart from the same, it is submitted that the appellant was not employed and therefore on that count, she will not be entitled to get any compensation.

5. The injuries suffered by the appellant are the following :

1. Contusion on the occipital region
2. Lacerated wound on the occipital region
3. Nasal bleeding, vomiting
4. Fracture right occipital bone, cerebral odema.

6. Mainly there are head injuries. The appellant was treated as inpatient for a period of 12 days. Ext.A6 is the copy of the discharge summary. The appellant had sustained fracture of occipital bone. There was subdural haemorrhage along left fronto-temporo-parietal convexity and extradural haemorrhage along right occipital convexity.

7. The appellant was aged 47 at the time of the accident and is a house wife. Of course, it is clear that she would have been out of

activity for a couple of months. Being a house wife, only a moderate amount can be taken for the purpose of assessment of compensation as what can be assessed is the loss of service to the family for that period. Considering the fact that the appellant was having head injury and was under treatment, we are of the view that partial loss of earnings can be granted for a period of three months @ ₹3,000/- per month.

8. The Tribunal has granted the entire amount claimed as medical expenses after examining the evidence given by PW2 and PW3, PRO of Lakshmi Hospital, where she was initially treated. Therefore, no amount is due towards treatment expenses.

9. As far as pain and suffering is concerned, what is granted by the Tribunal as against the claim of ₹50,000/- is ₹20,000/-. The injuries were serious and there was fracture also. She was subjected to different medical treatment also. Therefore, we find it reasonable to grant an amount of ₹30,000/- towards pain and suffering. Lastly, the Tribunal has granted ₹10,000/- towards loss of amenities. We fix an amount of ₹ 15,000/- towards loss of amenities.

10. Therefore, the total compensation is refixed as follows :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Loss of earnings	9000
Transportation	1000
Damage to clothing	1000
Extra nourishment	1000
Expense for treatment	93806
Bystander's expenses	2200
Shock, pain and suffering	30000
Loss of amenities	15000
Total	153006 Rounded off to ₹ 153,000/- (Rupees one lakh fifty three thousand only)

11. The amount will carry interest @ 9% per annum from the date of petition. The Insurance Company shall deposit the amount less the amount already deposited before the Tribunal within a period of three months and we permit the appellant to withdraw the amount also.

The appeal is accordingly allowed. The parties will suffer their costs in the appeal.

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH, JUDGE

SV.