



2025:KER:27353

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

FRIDAY, THE 28TH DAY OF MARCH 2025/7TH CHAITHRA, 1947

MACA NO.3803 OF 2018

AGAINST THE ORDER/JUDGMENT DATED 07.10.2016 IN OPMV
NO.510 OF 2011 OF MOTOR ACCIDENT CLAIMS TRIBUNAL VADAKARA

APPELLANT/CLAIMANT

SUNEESH P.P.,
AGED 35 YEARS,
S/O LATE RAMAN,
RESIDING AT PUTHAN PURAKKAL HOUSE P.O.,
NOCHAD, (VIA) NADUVANNUR,
KOZHIKODE DIST-673624.

BY ADV K.V.RASHMI

RESPONDENT/3RD RESPONDENT

THE ORIENTAL INSURANCE COMPANY LIMITED,
D.O.II, PRAMOD BUILDING, CHEROOTTY ROAD, KOZHIKODE,
REPRESENTED BY MANAGER-673101.

BY ADV JACOB MATHEW P

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 28.03.2025, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:



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JUDGMENT

The petitioner in O.P.(M.V.) No.510 of 2011 on the file of the Motor Accident Claims Tribunal, Vatakara has preferred this appeal seeking enhancement of compensation awarded by the tribunal on account of the injuries sustained by him in a motor accident that occurred on 11.11.2010.

2. The case of the petitioner in brief is as follows:-

On 11.11.2010, at 3.30 p.m., while the petitioner was riding a motorcycle bearing registration No. KL-56-B-5987 through Ulliyeri to Perambra public road and when he reached at Theruvathkadavu (Naduvannur), a jeep bearing registration No.KL-01-X-4485 driven by the 2nd respondent in a rash and negligent manner hit on the motorcycle ridden by the petitioner. Due to the impact of the hit, the petitioner was thrown to the road causing him serious injuries.



3. The owner and driver of the offending Jeep were arrayed as the 1st and 2nd respondents respectively, whereas, the insurer of the said jeep was arrayed as the 3rd respondent.

4. The 3rd respondent contested the petition by filing a written statement mainly disputing the quantum of compensation claimed in the petition. However, the 3rd respondent admitted the insurance coverage for the jeep involved in the accident.

5. During trial, from the side of the petitioner, Exts.A1 to A7 were marked and the permanent disability certificate issued by the medical board was marked as Exhibit C1. No evidence, whatsoever, was adduced from the side of the respondent.

6. After trial, the tribunal came to a conclusion that the accident occurred solely due to the rash and negligent driving of the jeep bearing registration No.KL-01-X-4485 by the 2nd respondent and being the insurer



the 3rd respondent was held liable to pay the compensation. The compensation was quantified as Rs. 5,87,130/- with interest at the rate of 9% per annum from the date of petition till realisation and proportionate costs. Seeking enhancement of the compensation awarded by the tribunal, the petitioner has come up with this appeal.

7. I heard Smt.Rashmi.K.V, the learned counsel appearing for the petitioner, and Sri.P. Jacob Mathew, the learned counsel appearing for the respondents.

8. The learned Counsel for the petitioner would submit that the compensation awarded by the tribunal under various heads is too meager. According to the Counsel it was without taking note of the serious nature of the injuries sustained by the petitioner and undermining the inconveniences and hardships caused to him due to the injuries sustained in the accident, the



tribunal awarded such a meager amount. Per contra, the learned Counsel for the respondents contended that the compensation awarded by the tribunal under various heads is just, fair, reasonable, and adequate and warrants no interference.

9. From the rival contentions raised, it is gatherable that the main dispute that revolves around this appeal is with respect to the quantum of compensation awarded by the tribunal. A perusal of the award reveals that for the purpose of determining the compensation under the head of permanent disability and loss of earnings, the tribunal assessed the monthly income of the petitioner at Rs. 4,000/-. After making an addition of 30% towards future prospects the tribunal assessed the income of the petitioner at Rs.5,200/-. In the petition, it was contended that the petitioner was a tile worker by profession and was earning a monthly income of Rs.10,000/-. Though such a contention was



taken, no evidence, whatsoever, was produced from the side of the petitioner to substantiate his claim regarding his occupation and income. Nonetheless, admittedly the accident occurred in the year 2010. Therefore, in view of the decision in ***Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Ltd. [(2011) 13 SCC 236]***, the tribunal ought to have assessed the monthly income of the petitioner at Rs.7,500/- notionally. As the petitioner was aged 35 at the time of the accident, in view the decision in ***Sarla Verma v. Delhi Transport Corporation [2010 (2) KLT 802 (SC)]***, the multiplier to be reckoned is 16.

10. In order to prove the permanent disability, the disability certificate issued by a competent medical board is marked as Ext.C1. As evident from Ext.C1, the petitioner suffered a disability of 50% due to the injuries sustained in the accident. Considering the nature of injuries sustained by the petitioner, I am of the view



that the disability assessed by the medical board is justifiable and can be acted upon. If that be so the petitioner is entitled to get an amount of Rs. 7,20,000/- (Rs. 7,500/- x 12 x 16 x 50/100) as compensation under the head of permanent disability.

11. Consequent to the enhancement in the monthly income, corresponding enhancement must be made towards compensation awarded under the head of loss of earnings. The petitioner had sustained the following injuries in the accident;

- Hemorrhage left lateral ventricle subarachnoid Hemorrhage;
- Inter fracture right- femur.

12. Give the nature of injuries, I am of the view that the the petitioner would have been prevented from doing any work or earning any income at least for six months. Hence the petitioner is entitled to get an



amount of Rs.45,000/- (Rs.7,500/- x 6) as compensation under the head of loss of earnings. Already an amount of Rs.24,000/- has been awarded by the tribunal under the said head. After deducting the said amount, the petitioner is entitled to get an additional compensation of Rs.21,000/-(Rs. 45,000/- - 24,000/-) under the head of loss of earnings.

13. Considering the nature of the injuries sustained by the petitioner and the treatment procedures underwent by him, I am of the view that a reasonable amount is to be awarded under the head of pain and suffering also. However only a meager amount of Rs.15,000/- is seen awarded by the tribunal under the said head. The said amount is obviously on the lower side. The pain and sufferings endured by the petitioner in connection with the accident ought not to have been overlooked by the tribunal while awarding compensation under the said head. I am of the view that an amount of



Rs.50,000/- is to be awarded under the head of pain and sufferings, entitling the petitioner get an additional compensation of Rs.35,000/- (Rupees Thirty-Five Thousand Only) under the head of pain and sufferings.

14. The compensation awarded by the tribunal under the head of loss of amenities also appears to be on the lower side. Only a meager amount of Rs.10,000/- is seen awarded by the tribunal under the said head. As I have already mentioned, the petitioner had undergone 33 days of inpatient treatment in connection with the accident. The petitioner had sustained several serious injuries including fractures. Moreover, the injuries resulted in a permanent disability of 50%. Therefore, the inconveniences and hardships endured by the petitioner in connection with the injuries sustained in the accident must be taken note of while awarding compensation under the head of loss of amenities. I am of the view that an amount of



Rs.40,000/- is to be awarded as additional compensation under the said head also.

15. The compensation awarded by the tribunal under other heads appears to be reasonable and justifiable and no interference is warranted. Hence, an amount of Rs 8,16,000/- (Rs.7,20,000/-+ Rs.21,000+ Rs.35,000 + Rs.40,000) has to be added to the total compensation awarded by the tribunal.

In the light of the aforesaid observations and findings, the appeal is allowed by enhancing the compensation by a further amount of Rs. 8,16,000/- (Rupees Eight Lakhs Sixteen Thousand only) with interest at the rate of 7.5% per annum on the enhanced compensation from the date of claim petition till the date of deposit, after deducting interest for a period of 648 days, i.e., the period of delay in preferring this appeal and as directed by this Court on 10.04.2019 in C.M. Appln. No.1/2018. The respondent insurance



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company is ordered to deposit the enhanced compensation with interest before the tribunal with proportionate costs within a period of three months from the date of receipt of the certified copy of this judgment. Immediately on the compensation amount being deposited, the tribunal shall, after deducting the liability of the appellant/petitioner towards the court fee, disburse the compensation amount to the appellant/petitioner in accordance with rules.

Sd/-

JOBIN SEBASTIAN
JUDGE

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