

(2011) 08 KL CK 0100
In the High Court Of Kerala
Case No : M.A.C.A. No. 1261 of 2006

Abdul Azeez

APPELLANT

Vs

United India Insurance Company Ltd.

RESPONDENT

Date of Decision : 01-08-2011

Acts Referred:

Citation : (2011) 08 KL CK 0100

Hon'ble Judges : R. Basant, J;M.C. Hari Rani, J

Bench : Division Bench

Advocate : Grashious Kuriakose, for the Appellant; John Joseph Vettikad, for the Respondent

Final Decision : Allowed

Judgement

R. Basant, J.—Claimant is the Appellant. He claimed compensation for personal injuries suffered by him in a motor accident which took place on 24/6/2000. Against a claim of Rs. 2,00,000/-, the Tribunal awarded a total amount of Rs. 18,000/- as per the details shown below:

Sl. No.

Heads

Amount awarded

Part-I

Compensation for loss of earnings from

1

24/6/2000 to 24/9/2000

Nil

2

Partial loss of earning

Nil

3

Transport to hospital

Rs. 800.00

4

Extra nourishment

Rs. 700.00

5

Damage to clothing and articles

Rs. 400.00

6

Others: Medical expenses

Rs. 2900.00

7

Expenses on attendance

Rs. 2100.00

Part-II

1

Compensation for pain and suffering

Rs. 8000.00

Compensation for continuing or

Rs. 3000.00

2

permanent disability

Rs. 17900.00

Total

Rounded off to

Rs. 18000.00

2. The quantum is the only ground of challenge. The learned Counsel for the

Appellant submits that the Tribunal did not realistically take note of the injuries, treatment, hospitalisation, involuntarily unemployment etc., before coming to the conclusion that only an amount of Rs. 18,000/- is due.

3. The Appellant is a resident of Iritty. After suffering the injuries, he was rushed to the Medical College Hospital, Calicut. He underwent treatment as an inpatient there for a period of 14 days. He had suffered fracture of the right frontal bone, multiple haemorrhagic contusion of right frontal lobe was also suffered. He had other external injuries. There was bleeding from the left ear. No. disability was suffered - at least there is No. evidence to prove any such disability suffered.

4. The learned Counsel for the Appellant, first of all, contends that the Tribunal erred grossly in not awarding any amount under the head of loss of earnings. The nature of the injuries and the period of the treatment must suggest that the Appellant must have been involuntarily unemployed for a period of 3 months. According to the Appellant, he is employed as a Salesman in a milk society. We are satisfied that it is absolutely reasonable to assume that he would have been involuntarily unemployed for a period of three months and that his monthly salary can be accepted as Rs. 2,344/-. For transport to hospital, only an amount of Rs. 800/- has been awarded. Considering the fact that he was treated at the Medical College Hospital, Kozhikode, it is easy to assume that higher expenditure for transportation must have been incurred. He was an inpatient for 14 days. We are hence satisfied that for medical and miscellaneous expenses including extra nourishment, bystander's expenses, damage to clothing etc., further amounts deserve to be awarded. The learned Counsel contends and we agree that the amount of compensation awarded under the head of pain and suffering (Rs. 8,000/-) is too low considering the nature of injuries and the period of treatment.

5. Taking all the relevant circumstances into account, we are satisfied that the Appellant is entitled to an amount of Rs. 35,032/- as compensation as per the details shown below:

1

Loss of earnings (` 2344 x 3)

-

` 7,032/-

2

Medical and miscellaneous expenses including medical bills, transportation expenses, extra nourishment, bystander's expenses etc.

-

` 10,000/-

3

Pain and suffering including loss of amenities.

-

` 18,000/- ( ` 15000 + ` 3000)

Total

-

` 35,032/-

6. The Appellant is therefore entitled to a further amount of Rs. 17,032/- (Rupees seventeen thousand and thirty two only) in addition to the amount already awarded by the Tribunal. We are further satisfied that interest awarded at the rate of 6% per annum is not adequate. We are satisfied that interest can be awarded on the entire amount of compensation from the date of the petition to the date of the realisation at 7.5% per annum.

7. In the result:

(a) This appeal is allowed in part.

(b) The Appellant is found entitled to a further amount of Rs. 17,032/- (Rupees seventeen thousand and thirty two only) in addition to the amount already awarded by the Tribunal.

(c) We direct that the entire amount of compensation shall carry interest at the rate of 7.5% per annum from the date of the petition to the date of the payment/ deposit.

(d) All other directions of the Tribunal are upheld.