

(2012) 03 KL CK 0068

In the High Court Of Kerala

Case No : MACA. No. 1427 of 2007 (B) and OPMV. 375 of 2001

Alappattukunnel Saji

APPELLANT

Vs

Anil Kumar and Others

RESPONDENT

Date of Decision : 09-03-2012

Acts Referred:

Citation : (2012) 03 KL CK 0068

Hon'ble Judges : Pius C. Kuriakose, J;A.V. Ramakrishna Pillai, J

Bench : Division Bench

Advocate : V.A. Satheesh and Sri. V.T. Madhavanunni, for the Appellant; Thomas Mathew Nellimootil, for R2, for the Respondent

Final Decision : Allowed

Judgement

Pius C. Kuriakose, J.—A workshop owner who sustained serious injuries the details of which are given by the Motor Accidents Claims Tribunal in paragraph 9 of the impugned award complains that he was not paid adequate compensation by the Tribunal under various heads claimed by him. He claimed a total amount of Rs.4,40,000/- as compensation and the Tribunal awarded only Rs.1,76,500/-. According to him, though he was a workshop owner and was earning Rs.10,000/- per month. The Tribunal adopted his monthly income notionally as Rs.1,000/- only. He urges in the memorandum of appeal that compensation awarded towards all heads is inadequate. We have heard the submissions of Mr. T. Madhavanunni, learned counsel for the appellant and the learned standing counsel for the Insurance Company. We have very carefully gone through the impugned award.

2. The argument of Mr. Madhavanunni is that the compensation awarded by the Tribunal is inadequate whereas the argument of the learned standing counsel for the Insurance Company is that the Tribunal has awarded reasonable compensation and there is no justification for giving further increase.

3. We have given our anxious consideration to the rival submissions addressed at

the Bar. We are in agreement with the learned counsel for the appellant that the appellant was not paid adequate compensation by the Motor Accident Claims Tribunal. Having regard to the nature of the injuries suffered by the appellant, we are of the view that he was completely deprived of all amenities and pleasures in life for at least five months. We accordingly award to the appellant Rs.10,000/- towards compensation for loss of amenities. The appellant as already stated could not earn any amount from his business on account of his injuries suffered by him in the accident. According to us, a sum of Rs.4,000/- presently awarded by the learned Tribunal towards loss of earning is inadequate. We award Rs.11,000/- more towards compensation for loss of earning. Towards by-stander's expenses, the Tribunal awarded Rs.5,100/- at the rate of Rs.100/- per day for 51 days is inadequate. According to us, there is justification for awarding by-stander's expenses at the rate of Rs.200/- per day, which means that the appellant is eligible to get additional sum of Rs.5100/- towards by-stander's expenses. Therefore, we award Rs.5100/- to the appellant on that count. The learned Tribunal has awarded a lump sum amount of Rs.15,000/- towards disability compensation. In view of the appellant's admission that even after the income from his workshop has been increased, we feel that for continuing discomforts, the appellant will have to be awarded Rs.20,000/- more. Accordingly, we award Rs.20,000/- to the appellant on that count.

4. Thus in total the appellant is eligible to get an amount of Rs.46,100/-(Rupees forty six thousand one hundred only) over and above what was awarded by the Tribunal. This additional amount will carry interest at the rate awarded by the Tribunal. The appeal is allowed in part. The impugned award shall stand modified as above. No order as to costs. We have very carefully