

**(2014) 11 KL CK 0010**  
**In the High Court Of Kerala**  
**Case No : M.A.C.A. No. 1832 of 2011**

Anu Jolly

APPELLANT

Vs

Boby Kuriakose

RESPONDENT

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**Date of Decision :** 25-11-2014

**Acts Referred:**

**Citation :** (2014) 11 KL CK 0010

**Hon'ble Judges :** T.R. Ramachandran Nair, J;P.V. Asha, J

**Bench :** Division Bench

**Advocate :** Peeyus A. Kottam, Advocate for the Appellant; V.P.K. Panicker and George Cherian, Advocate for the Respondent

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## Judgement

T.R. Ramachandran Nair, J.—This appeal is filed by the claimant in OP (MV) No. 75 of 2008 on the file of MACT, Muvattupuzha. The injured is a young girl aged 14 years studying in the 9th standard in St. Augustine's Secondary School, Kalloorkad at the time of the accident. The accident occurred on 25.2.2007 at about 10 a.m., when the bus bearing registration No. KL-7AH-752, which was being plied through Chattupara - Kalloorkad road, hit on a mud wall and lost its control, resulting in injuries to various passengers travelling in the bus. Altogether five cases were tried together by the Tribunal and a common award has been passed.

2. As far as the appellant herein is concerned, a detailed discussion is evidenced from paragraph 18 of the judgment regarding the injuries sustained by her, the treatment undergone and consequences of the same on her body.

3. As per Ext. A16 wound certificate issued from the MOSC Medical College Hospital, Kolenchery, it can be seen that she had sustained multiple abraded contusion lips, multiple abrasion of swelling left ankle, abrasion 2 x .5 c.m. left dorsum foot and tenderness epigartium. She was admitted in the said hospital on 25.2.2007. There was bleeding from the nostril also. Exts. A17 to A21 are other records from the hospital concerned, which gives the details of treatment and

other investigation made. For convenience, we extract the following details available in paragraph 18 of the judgment:-

"Ext. A17 is the discharge summary issued from neuro surgery department of that hospital which would evidence that the CT scan of head showed right frontal fracture with frontal EDH. Craniotomy and EDH evacuation was done under general anaesthesia. She was treated with anti-convulsants, antibiotics, antiedema and other supportive measures. The sutures were removed on the 7th day. She was discharged on 8.3.07 as she was clinically stable with an advise to have a review after two weeks. Ext. A18 is the discharge summary issued from that hospital which would evidence that the petitioner was readmitted in that hospital on 16.3.07 with complaints of nasal discharge and was discharged on 30.3.07 with an advise to have a review as and when required. Ext. A19 is the case records and discharged summary issued from Dr. Noushad's ENT hospital and Research Centre, Vysali junction, NH Bye pass Cochin which would evidence that the petitioner was admitted in that hospital on 31.3.07 with complaints of CSF rhinorrhoea Traumatic Accidental variety and watering nasal discharge left side. The nasal endoscopy revealed leak from right middle meatus? Frontal sinus roof. CT scan showed accumulation of leak of CSF into the right frontal sinus. CSF was seen accumulated in the right maxillary sinus as well. Fractures of the roof of right orbit and adjacent right lateral frontal bone and right sided concha bullosa with DNS to the left hypertrophy of right inferior turbinate. Ext. A20 is the case record and discharge summary issued from the above said hospital. As per the said discharge summary the petitioner was again admitted in that hospital on 26.5.07 with complaints of watering nasal discharge right side and was discharged on 6.6.07. Ext. A21 is the certificate issued by the Headmaster St. Augustine's Secondary School, Kalloorkad which would evidence that the petitioner was a student in the X standard of that school during the academic year 2007-2008 and she discontinued her study with effect from 13.8.07."

4. These details would show that there was frontal fracture with frontal EDH and she had continued problem by way of nasal discharge. This had to be corrected by appropriate treatment in Dr. Noushad's ENT Hospital, Cochin and later also she was treated in the Medical College Hospital, Kolenchery as evident from Ext. A35 certificate. Ext. A35 is dated 23.10.2010. After recording the details of the treatment undertaken by her, it has been further certified that 3 years and 11 months of post trauma, she is still having difficulty in concentration, impaired memory and head ache. She also carries the risk of post traumatic fits and therefore, she is still continuing treatment as outpatient.

5. In the light of the above evidence, the learned counsel for the appellant submitted that the compensation awarded towards various heads is only less than what is liable to be granted to the appellant.

6. Learned counsel for the Insurance Company submitted that the Tribunal was right in its finding that no amount could be awarded for continuing permanent disability, loss of earning power, disfigurement and loss of marriage prospects

since there was no evidence on record to substantiate those plea. It is also submitted that there is no permanent disability as far as the appellant is concerned.

7. The Tribunal has awarded the compensation in a following manner:-

8. We find that towards transportation, extra nourishment, attendant expenses and damage to clothings an amount of Rs. 10,000 has been granted. But in the light of the continuous treatment she had undertaken, the parents would have spent more amount for transportation as well as for attendant expenses and we grant a further amount of Rs. 7,500 under the said head, that means; a total of Rs. 17,500.

9. The medical bills produced by the appellant reflects spending of Rs. 95,768/-. Of course, the actual amounts have been granted going by the said claim. But in the light of Ext. A35 certificate, it is evident that she had continued her treatment for 3 years and 11 months and she required further continuous treatment. Therefore, we provide an amount of Rs. 35,000/- towards future medical care. The next item is compensation for pain and suffering. The total claim is Rs. 1,00,000/- under the said head. It is clear that she had suffered trauma at the young age of 14 for long time and the accident affected her studies also, since it is evident from Ext. A21 that she had discontinued her studies with effect from 13.8.2007. Apart from the same, Ext. A35 shows that she has got difficulty in concentration, impaired memory and head ache. But Ext. A22, the Secondary School Leaving Certificate shows that she had scored high marks in the said examination. It would only be proper to compensate the appellant under the head of pain and suffering and we award a total amount of Rs. 60,000 under the said head. Lastly, the amount awarded towards loss of amenities is Rs. 20,000 and we grant an amount of Rs. 35,000 under the said head.

10. Thus, we refix the total compensation in the following manner:-

Thus, the appellant will be entitled to a total compensation of Rs. 2,43,250/- (Rupees Two Lakhs Forty Three Thousand Two Hundred and Fifty only), which will carry interest at the rate of 9% per annum from the date of petition till realisation, except for the amount of Rs. 35,000/- provided for future medical care. There will be a direction to the Insurance Company to deposit the entire amount of compensation within a period of three months from the date of receipt of a copy of this judgment, less the amount already deposited before the Tribunal.

This appeal is allowed accordingly.