
(2010) 08 KL CK 0160
In the High Court Of Kerala
Case No : MACA No. 74 of 2008

Dhanya Thomas

APPELLANT

Vs

Dilbag Singh, Subash and The Oriental Insurance Co. Ltd.

RESPONDENT

Date of Decision : 02-08-2010

Acts Referred:

Citation : (2010) 08 KL CK 0160

Hon'ble Judges : M.N. Krishnan, J

Bench : Single Bench

Advocate : Rajit, for the Appellant; George Cherian, for the Respondent

Final Decision : Dismissed

Judgement

M.N. Krishnan, J.—MACA 74/08 is preferred against the award of the Motor Accidents Claims Tribunal, Ottapalam in O.P.(MV)528/05 and the other appeal is preferred against O.P.(MV)538/05. Heard the learned Counsel for the appellant as well as the respondent. In MACA 74/08 the total compensation awarded in the basic award is Rs. 15,501/-.

2. The claimant, a minor girl aged 14 years, sustained a lacerated wound on the forehead and injuries on the elbows. She was treated in the Elite Mission Hospital for a period of 2 days and the Tribunal has awarded really a reasonable compensation of Rs. 15,501/- for the said injuries. The Tribunal granted Rs. 7,000/- for pain and sufferings, Rs. 1,000/- as extra nourishment. It allowed the actual medical expenses of Rs. 5,201/- and therefore the amount awarded is just and reasonable and so it does not call for any interference.

3. In MACA 191/08 which is preferred against the award in O.P.(MV)538/05, the mother of the child in the other case is the claimant. She is a 45 year old lady and she had sustained a lacerated wound over the left upper eyelid and lacerated wounds on the parietal region. She was in the hospital for two days. It is submitted that the scan report reveal multiple small hemorrhagic contusion on the right temporal lobe and expended Rs. 10,295 towards medical expenses.

Disability certificate was produced showing it as 10%. The Tribunal did not accept it for the reason that evidence was lacking to show that there was loss of memory or reasons for blurring of vision. But it is a fact that a person had sustained a brain injury. Therefore it would have taken some time for coming to normalcy. So taking into consideration those aspects I am inclined to award Rs. 3,000/- more towards pain and sufferings and Rs. 2,000/- more towards loss of amenities thus making an additional compensation of Rs. 5,000/-.

In the result MACA 74/08 is dismissed and in MACA 191/08 the claimant is awarded an additional compensation of Rs. 5,000/- with 7.5% interest on the said sum from the date of petition till realisation and the insurance company is directed to deposit the same within a period of sixty days from the date of receipt of a copy of the judgment.