

(2010) 11 KL CK 0065
In the High Court Of Kerala
Case No : M.A.C.A. No. 1787 of 2010

K. Ayishabi

APPELLANT

Vs

Moideenkoya, K. Abdul Rahiman and The New India
Assurance Co. Ltd.

RESPONDENT

Date of Decision : 03-11-2010

Acts Referred:

Citation : (2010) 11 KL CK 0065

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

Bench : Single Bench

Advocate : V.S. Chandrasekharan, for the Appellant; No Appearance, for the Respondent

Judgement

M.N. Krishnan, J.—This is an appeal preferred against the award of the Claims Tribunal, Kozhikode in OP(MV No. 827/2007. The claimant, a lady, sustained injuries in a road accident and the Tribunal has awarded her a compensation of Rs. 15,232/=and it is against that decision she has come up in appeal for enhancement.

2. Heard. A perusal of the wound certificate made available would show that she had a minimal wedge compressed fracture of T 11 vertebra. Wedge fracture is a fracture of vertebral structures with anterior compression.

3. Normally when one sustains fracture of the vertebra, there will be difficulty for that person and it may take a longer time to come back to normalousy. In some cases it can cause disability as well.

4. It is submitted that the claimant has moved an application for reference to a medical board but it was dismissed by the court. But unfortunately the claimant also has not herself examined or any medical evidence is tendered to show about actual position of the injury. Therefore, I feel it is desirable that an opportunity be given and the claimant to be referred to a medical board so as to assess the disability, if any, and to compensate her properly.

5. Therefore the award under challenge is set aside and the matter is remitted back to the Tribunal with a direction to refer the claimant to a medical board for examination and thereafter permit both the parties to adduce both oral and documentary evidence in support of their respective contentions and to dispose of the matter in accordance with law. Parties are directed to appear before the Tribunal on 15.12.2010. The claimant is also directed to take steps to call all the respondents after she enters appearance before the Tribunal.

Disposed of accordingly.