

(2012) 03 KL CK 0104
In the High Court Of Kerala
Case No : M.A.C.A. No. 1375 of 2008

K.C. Praveen Kumar

APPELLANT

Vs

V. Mohammed and The New India Assurance Co., Ltd,
Cherooty Road, Kozhikode

RESPONDENT

Date of Decision : 27-03-2012

Acts Referred:

Citation : (2012) 03 KL CK 0104

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

Bench : Division Bench

Advocate : A.V.M. Salahudin, for the Appellant; A.C. Devy, for the Respondent

Final Decision : Allowed

Judgement

Pius C. Kuriakose, J.—A computer operator who sustained contusion and abrasion on face leading to breakage of one tooth in a road traffic accident complains that the Motor Accidents Claims Tribunal did not award him adequate compensation. The appellant's claim was for Rs. 2 lakhs and under the impugned award the learned Tribunal has only awarded a sum of Rs. 8,500/- . In the memorandum of appeal, it is urged that the Tribunal did not award adequate compensation to the appellant on any of the heads under which compensation is claimed.

2. We have heard the submissions of the Learned Counsel for the appellant and those of Sri.A.C.Devy, the learned Standing Counsel for the Insurance Company. The Learned Counsel for the appellant submitted that it is mainly on the reason that the accident register- cum-wound certificate was not produced by the Learned Counsel for the appellant that the learned Tribunal became disinclined to uphold most of the appellant's claim for compensation. A copy of the wound certificate had actually been produced before the MACT, so submitted the Learned Counsel for the appellant who placed before us certified copy of the wound certificate for our perusal. We have perused the wound certificate. Copy given to us was obtained not from the MACT but from the concerned Criminal Court. There is nothing to indicate that the above document was produced before

the MACT. Even going by the above document, it is not major injury which has been sustained by the appellant. At the most one tooth of the appellant was broken on account of the accident.

3. Having considered the submissions of the appellant which were very strongly resisted by Sri.A.C.Devy, the learned Standing Counsel for the Insurance Company and having gone through the Wound Certificate produced before us, we feel that there is justification for awarding to the appellant some more compensation. According to us, the sum of Rs. 5,000/- presently awarded towards pain and sufferings is inadequate. We award to the appellant Rs. 5,000/- more. So also we feel that a further amount of Rs. 2,000/- can be awarded towards loss of amenities and we award the said amount to the appellant towards that head. The reference card issued to the appellant by the Motor Accidents Claims Tribunal, Kozhikode indicates that the appellant was in hospital for three days. We are of the view that there is justification for awarding to the appellant Rs. 600/- towards bystander's expenses. We award that amount to the appellant.

4. Thus over and above what is awarded by the Tribunal we award to the appellant a total amount of Rs. 7,600/- . This amount will carry interest at the same rate as is awarded by the Tribunal in its award. The appeal is allowed. No costs.