
(2010) 08 KL CK 0102
In the High Court Of Kerala
Case No : M.A.C.A. No. 3088 of 2009

Krishnankutty

APPELLANT

Vs

Managing Director, KSRTC and Joy Kochappan

RESPONDENT

Date of Decision : 18-08-2010

Acts Referred:

Citation : (2010) 08 KL CK 0102

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

Bench : Single Bench

Advocate : V. Binoy Ram, for the Appellant; V.V. Nandagopal Nambiar, SC, for the Respondent

Final Decision : Allowed

Judgement

M.N. Krishnan, J.—This is an appeal preferred against the award of the Claims Tribunal, Irinjalakuda in O.P.(MV)No. 1206/2005. A bus driven by the 2nd respondent in the claim petition hit against the motor cycle of the claimant resulting in injuries to him. The Tribunal found the driver of the bus negligent and awarded a compensation of Rs. 19,900/-. Dissatisfied with the same, the claimant has come up in appeal.

2. Heard the learned Counsel. A perusal of the award would reveal that the claimant had sustained fracture of the right lateral malleolus and he was treated as an inpatient in a private hospital namely Heart Hospital, Trichur for 4 days. The Tribunal took his income only at Rs. 2,000/-. It did not accept the disability certificate produced. The learned Counsel for the claimant had made available a copy of the disability certificate for perusal wherein it is stated that there is limitation of movements as well as stiffness. But the Tribunal found that the doctor is not examined. Unfortunately, the claimant is also not examined. Therefore I am not in a position to accept the disability certificate, but a little enhancement can be given under the following heads:

3. Admittedly the claimant is a building contractor, aged 47 years. The fracture is

on the ankle. He would not have been in a position to do any work for a period of three months. Taking the income at Rs. 3,000/-, the claimant will be entitled to Rs. 9,000/- towards which only Rs. 4,000/- is granted. Therefore towards loss of earnings, an amount of Rs. 5,000/- is granted. It is true that the claimant had not produced any medical bills, but the Tribunal was convinced that he was treated in a private hospital which is a reputed one namely Heart Hospital, Trichur. He was inpatient there for four days. Certainly he would have undergone radiological examination and other tests. So taking into account the present treatment expenses, I award Rs. 2,000/- under that head. Similarly since the fracture is on the ankle and there is stiffness, certainly loss of amenities would be there for some time, for which I allow another Rs. 2,000/- making a total additional compensation of Rs. 9,000/-.

4. In the result, the MACA is partly allowed and the claimant is awarded an additional compensation of Rs. 9,000/- with 7% interest on the said sum from the date of petition till realisation and the first respondent KSRTC is directed to deposit the said amount within a period of 90 days from the date of receipt of a copy of this judgment.

Disposed of accordingly.