

(2012) 03 KL CK 0096
In the High Court Of Kerala
Case No : MACA. No. 913 of 2011 (C)

Kunjava

APPELLANT

Vs

K.P. Hameed, Kozhiparambath House, P.O. Cherukundangad,
Pallipuram-679305, K.P. Assainar and The Oriental Insurance
Co. Ltd., "Pranavam", Mele Pattambi, Pattambi Palakkad
District-679303

RESPONDENT

Date of Decision : 20-03-2012

Acts Referred:

Citation : (2012) 03 KL CK 0096

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

Bench : Division Bench

Advocate : P. Santhosh Poduval and Smt. R. Rajitha, for the Appellant; George Cherian (Thiruvalla), for the Respondent

Final Decision : Allowed

Judgement

Pius C. Kuriakose, J.—A 63 years old coolie worker who suffered by frontal contusions on brain, left thalamic contusions, diffuse traumatic SAH with thrombosis, fracture occipital bone, fracture left maxilla, lacerated wound 4x3x1 c.m. on right leg, lacerated wound 3x2x1 c.m. occipital region in a road traffic accident complains that the Motor Accidents Claims Tribunal did not award him adequate compensation. In the memorandum of appeal it is urged that the compensation for disability and compensation granted by the Tribunal under various other heads is inadequate. Sri. Santhosh P. Poduval, the learned counsel for the appellant argued on the basis of the submissions raised in the memorandum of appeal that the Tribunal did not award to the appellant reasonable compensation. Per contra, the learned Standing Counsel for the Insurance Company submitted that what is awarded to the appellant, a 63 year old coolie, by the learned Tribunal as compensation is more than sufficient.

2. Having bestowed our anxious consideration to the rival submissions addressed at the Bar, and having carefully gone through the impugned award, we are of the

view that there is justification for awarding some more compensation to the appellant under various heads. The accident occurred in the year, 2002. It is in evidence that the appellant was a able bodied man despite his seniority in age. The monthly income of Rs. 2,000/- adopted by the Tribunal for fixing the disability compensation according to us is low. We adopt a monthly income of Rs. 2,500/-. So also we find that a renowned neurologist of the city certified that the appellant suffered 30% permanent disability on account of the injuries suffered by him. But the Tribunal did not accept the above certificate and granted Rs. 10,000/- for the appellant towards compensation for discomfiture. We are of the view that there is justification for taking 15% as the permanent disability suffered by the appellant. When the disability compensation is calculated on the above basis taking 5 as the multiplier, it will be seen that the appellant is eligible for a further amount of Rs. 12,500/- towards disability. We award that amount to the appellant.

3. On going through the award we find that a sum of Rs. 15,000/- presently awarded towards pain and suffering is inadequate. Having regard to the nature of the injuries suffered we award to the appellant Rs. 10,000/- more towards pain and sufferings. So also we are convinced that there is warrant for awarding Rs. 7,000/- more as compensation for loss of amenities and pleasures of life. We award the said amount as additional compensation towards that head. Bystander's expenses for 25 days has been awarded to the appellant at the rate of Rs. 100/- per day only. This is inadequate. We award to the appellant Rs. 2,500/- more towards compensation for bystander's expenses. The learned Tribunal awarded loss of earnings to the appellant only for three months and that too at the rate of Rs. 2,000/-. We are of the view having regard to the age of the appellant, that the appellant was unable to do any work for six months. When loss of earnings is re-calculated adopting the monthly income of Rs. 3,000/-, it will be seen that the appellant is eligible for a further sum of Rs. 12,000/- towards loss of earnings. We award the said amount to the appellant. Thus in total we award to the appellant a sum of Rs. 44,000/- as additional compensation. This amount will carry interest at the rates awarded by the Tribunal in its original award. The appeal is allowed to the above extent. No costs. However, during the period by which the filing of the appeal was delayed the amount awarded as above will not carry any interest.