(2013) 07 KL CK 0165

In the High Court Of Kerala

Case No : MACA. No. 399 of 2007

Rajeesh APPELLANT

Vs

T. Ammedkoya, New India Assurance Co. Ltd., P.P. Komalavally and The Oriental Insurance Company Limited RESPONDENT

Date of Decision : 23-07-2013

Acts Referred:

Citation : (2013) 07 KL CK 0165

Hon'ble Judges : S. Siri Jagan, J;K. Ramakrishnan, J

Bench : Division Bench

Advocate : A.V.M. Salahudin, for the Appellant; A.A. Ziyad Rehman, for the Respondent

Final Decision : Disposed Off

Judgement

S. Siri Jagan, J.—The claimant in O.P. (M.V). No. 853/2000 before the Ist Additional Motor Accidents Claims Tribunal, Kozhikode, is the appellant herein. He was 18 years old in 2000 when he met with an accident caused by the negligent driving of a vehicle owned by the 3rd respondent, driven by the 1st respondent and insured with the 2nd respondent. He filed the O.P. seeking compensation for the injuries and consequent disability suffered by him. After finding negligence on the part of the driver of the vehicle, the Tribunal awarded compensation under various heads as follows:

Dissatisfied with the quantum of compensation awarded, the appellant has filed this appeal seeking enhanced compensation.

The first contention raised by the appellant is that the multiplier adopted by the Tribunal for computing compensation for loss of earning power is wrong and as per the decision in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , the multiplier applicable to a 18 year old person is 18, whereas the Tribunal has adopted only 16. The second contention is that the annual income of Rs. 15,000/- fixed for the appellant is on the lower side and it should have been at least Rs. 5000/- per month. The third contention is that the Tribunal awarded only Rs. 15,000/- towards pain and sufferings, which is on the lower side. Lastly, it is contended that despite finding 16% disability, the Tribunal has awarded only Rs. 5,000/- towards loss of amenities in life, which is palpably low.

2. We have heard the learned counsel for the insurance company also. As rightly pointed out, the multiplier to be adopted for a 18 year old is 18 and not 16 going by the decision in Sarla Verma''s case (supra). But we are not inclined to interfere with the annual income of Rs. 15,000/- fixed by the Tribunal for the appellant insofar as the appellant has not adduced any evidence whatsoever to prove either his avocation or his income. Calculated on that basis, the compensation for loss of earning power would be Rs. 43,200/- (Rs. 15,000 x 18 x 16/100) instead of Rs. 38,400/-. The difference would be Rs. 4,800/-. The accident was on 26.3.2000. That being so, in 2000 the compensation for pain and suffering of Rs. 15,000/- for the injuries suffered by the appellant, namely, comminuted fracture of olecranon and right lower humerus, appears to be just and reasonable. Therefore, we are not inclined to interfere with the same. But we find that for 16% disability, compensation for loss of amenities in life amounting to Rs. 5,000/- is on the lower side. We enhance it to Rs. 15,000/-. Despite the persuasive arguments of the learned counsel for the appellant, we are not inclined to interfere with the compensation assessed by the Tribunal under the other heads. In view of our above findings, the appellant would be entitled to additional compensation of Rs. 14,800/- over and above what has been awarded by the Tribunal. This amount would carry interest at the rate of 9% per annum from the date of claim petition till date of payment. The insurance company is directed to deposit this amount also within two months.

With the above modification of the impugned award of the Tribunal, this appeal is disposed of.