
(2012) 02 KL CK 0151

In the High Court Of Kerala

Case No : MACA No. 1925 of 2011 (D) and OPMV 1480 of 2007

Rakesh

APPELLANT

Vs

Dr. P Abdulla and National Insurance Company Limited

RESPONDENT

Date of Decision : 28-02-2012

Acts Referred:

Citation : (2012) 02 KL CK 0151

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

Bench : Division Bench

Advocate : Latha Prabhakaran and Sri. K.M. Jamaludheen, for the Appellant;
Mathews Jacob (Sr.) for R2 and Sri. P. Jacob Mathew for R2, for the Respondent

Final Decision : Allowed

Judgement

Pius C. Kuriakose, J.—A Sales Representative who sustained head injury, fracture cuboid (Rt) fracture (Rt) metatarsal (5th) in a road traffic accident is aggrieved by what he describes as inadequacy of compensation awarded to him by the Motor Accidents Claims Tribunal.

2. In this appeal various grounds have been raised urging that the compensation awarded by the Tribunal under various heads is quite inadequate. We have heard the submissions of Smt. Latha Prabhakaran, the learned counsel for the appellant and also those of Sri. Mathews Jacob, the learned Senior Counsel for the Insurance Company. We have carefully gone through the award of the Tribunal.

3. The submission of the learned Senior Counsel for the Insurance Company was that the learned Tribunal has adopted a wrong multiplier. According to him, considering the age of the injured who was 24 the proper multiplier to be adopted was 17 and not 18. We find force in the above submission.

4. Though Smt. Latah Prabhakaran argued that the learned Tribunal should have accepted the appellant's case regarding monthly income, according to us in the absence of any evidence, the learned Tribunal cannot be blamed for having adopted notional income of Rs. 3,000/- for determining loss of earnings and

disability compensation. The medical board assessed the disability suffered by the appellant to be 20% and the medical board's report was accepted by the Tribunal. Re-computing the disability compensation adopting the multiplier of 17 it will be seen that the sum of Rs. 1,29,600/- presently awarded will stand reduced by Rs. 7,200/-. We therefore reduce a sum of Rs. 7,200/- from the disability compensation awarded by the learned Tribunal. The appellant has been awarded compensation for loss of earnings only for one and a half months. Considering the gravity of the injuries sustained, we are of the view that the appellant would have lost his earnings completely for at least three months. We therefore, award to the appellant Rs. 4,500/- more towards loss of earnings. Towards pain and sufferings, the appellant has been awarded only Rs. 10,000/-. We are convinced that the appellant should be awarded Rs. 5,000/- more towards pain and sufferings and we award the said amount to the appellant. We find that towards loss of amenities and conveniences and pleasures of life, the appellant has not been awarded any compensation. Considering the nature of the injuries sustained, we are sure that the appellant could not enjoy the pleasures of life during reasonably long period and hence, we award to the appellant Rs. 10,000/- towards loss of amenities. We are surprised to find that even though the appellant was in the hospital for 38 days he has not been awarded any compensation towards bystander's expenses. We award to the appellant Rs. 7,600/- towards bystander's expenses. Thus we award to the appellant a sum of Rs. 19,900/- more than what is awarded by the Tribunal. The appeal is allowed to the above extent. The additional amount awarded will carry interest at the same rate as is awarded by the Tribunal. No costs.