

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 24TH DAY OF OCTOBER 2018 / 2ND KARTHIKA, 1940

MACA.No. 2318 of 2009

AGAINST THE AWARD IN OPMV 2843/2000 of M.A.C.T., ERNAKULAM DATED
20-04-2008

APPELLANT/S:

S.BAIJU
AGED 39 YEARS
SON OF SIVARAMAN, KUNJATTU HOUSE, PADIVATTOM,
EDAPPALLY P.O., KOCHI-682 024.

BY ADVS.
SRI.ANIL S.RAJ
SMT.ANILA PETER
SMT.K.N.RAJANI
SRI.RADHIKA RAJASEKHARAN P.

RESPONDENT/S:

- 1 T.P.SAIDU MUHAMMED
S/O. KASSIM, THAIKKANDIL PARAMBIL HOUSE,, KARUMATHRA
P.O, THEKKUMKARA, VADAKKANCHERY.
- 2 ISMAIL S/O.HYDROSE
MANTHIYIL HOUSE, KARUMATHRA P.O., , NEAR VELANKANNI
MATHA CHURCH,, VADAKKANCHERY, THRISSUR.
- 3 THE UNITED INDIA INSURANCE COMPANY
LIMITED, REPRESENTED BY ITS MANAGER,, BRANCH OFFICE,
THRISSUR.
- 4 P.V.SURESH
PANAKKAL HOUSE, KEERANKULANGARA, THRISSUR.

BY ADVS.
SMT.T.C.SOWMIAVATHY FOR R3
SRI.C.KHALID
SRI.T.P.SAJID

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
24.10.2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The appellant is the injured in an accident which occurred on the collusion between a motor bike and an autorikshaw on 25.8.2000. The appellant had suffered three days in-patient treatment and had sustained compression fracture L1 without neurological deficit and contusion L5 spine. It is also seen that during the period of hospitalisation final jacket was applied. The appellant claims enhanced compensation. The learned counsel for the appellant submits that he was working as a Turner in a private firm and there was occupational disability. However, there is nothing produced to show the occupational disability nor any reversion or termination suffered from employment. The accident occurred in the year 2000 and award was passed in 2008. If there was any reversion or termination, definitely, at the trial of the case the appellant could have produced sufficient evidence

to show that. In such circumstance, there could be found no permanent disability. The disability certificate, though produced as Annexure A8, was not proved through the Doctor who certified the disability. In such circumstance, there could be no compensation for disability awarded to the appellant. Considering the injuries as also the treatment undergone the following enhancement could be granted:

Sl. No.	Head of Claim	Amount awarded by the Tribunal (Rs)	Total amount after enhancement in appeal (Rs)
1	Transportation, hospitalisation, attendant expenses, Extra nourishment & damage to clothings	500	5000
2	Medical Expenses	8000	8000
3	Loss of earnings	5000	10000
4	Pain and suffering	10000	10000
5	For discomforts & inconveniences	3000	3000
	Total	26500	36000

Hence there shall be an enhancement of Rs.9,500/- , which shall be paid by the company as has been

directed by the Tribunal to recover from the registered owner of the vehicle The amounts awarded shall be paid after deducting whatever has been paid, with cost if any and interest at the rate as granted by the Tribunal, within two months from the date of receipt of a certified copy of this judgment.

The appeal is allowed. Parties are left to suffer their respective costs.

Sd/-

K.VINOD CHANDRAN
JUDGE

okb

//True copy// P.A. to Judge