

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 10TH NOVEMBER 2008 / 19TH KARTHIKA 1930

MACA.No. 1286 of 2008()  
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OPMV.3518/2001 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE  
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APPELLANT(S): APPELLANT/PETITIONER  
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ABDUL RAFEEQUE, S/O ABDU RAHIMAN,  
AGED 29 YEARS, KAKKUMPURATHU HOUSE,  
P.O.KODUVALLY, CALICUT.

BY ADVS. SRI.K.M.JAMALUDHEEN  
SMT.LATHA PRABHAKARAN

RESPONDENT(S): RESPONDENTS  
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1. V.P.RAGHAVAN,  
PROP. M/S RAMYA TRAVELS, NO-10, 6TH MAIN,  
OPPOSITE LIC QUARTERS, NEW THIPPASANDRA,  
BANGALORE.

2. THE ORIENTAL INSURANCE CO. LTD.,  
IML BUILDING, NO.221, CUBBONPET ROAD,  
NR SQUARE, BANGALORE.

ADV. SRI.S.MAMMU FOR R2

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD  
ON 10/11/2008, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**M.N. KRISHNAN, J**

**M.A.C.A.No. 1286 OF 2008**

Dated this the 10<sup>th</sup> day of November, 2008

**JUDGMENT**

This appeal is preferred against the award of the Principal Motor Accident Claims Tribunal, Kozhikode in O.P.(MV) No.3518/2001. The claimant sustained injuries in a road accident on 5.9.2001 and the Tribunal had awarded compensation of Rs. 12,350/-. It is against that decision the claimant has come up in appeal for enhancement.

2. I had perused the award and some documents and heard counsel for both sides in detail. The claimant was aged 23 years. Immediately after the accident she was admitted in the MIMS Hospital. He was treated for a day and on the next day he was shifted to Medical College Hospital where he had undergone treatment for 7 days. The claimant had sustained fracture on the left humerus and there was fixation and implantation. Subsequently the implantation was removed from another private hospital namely Baby Memorial Hospital, Kozhikode. Though the Tribunal had referred to various bills produced, it felt suspicious about every bill. It even observed that the claimant is an influential man. It can be seen from the award itself and that two of the

most competent doctors in Orthopedics had given treatment to the claimant. Both the hospitals namely MIMS as well as Baby Memorial Hospital are private institutions which render expert treatment. Therefore when a person sustained a bad fracture on the humerus it had been interfered surgically and later implantation has to be removed. There is nothing wrong in awarding a minimum sum of Rs. 10,000/- towards medical expenses. So I enhance that compensation by Rs. 8,000/-. This man had underwent inpatient treatment from 5.9.2001 to 12.9.2001 in two hospitals and later in 2003 in another private hospital for removal of implantation. He was a driver by profession. He would have certainly suffered severe pain on account of the injuries sustained besides humerus fracture. He had also other wounds which required suturing. Therefore I enhance the compensation for pain and suffering by Rs. 5,000/-. When such a fracture is sustained the loss of amenities compensation also be enhanced and I enhance it by Rs. 3,000/-. Being a driver by profession and sustainment of fracture in the humerus would effect his driving profession atleast for a period of 2-3 months. Therefore I enhance an amount of Rs. 2,500/- under that head. Therefore he is entitled to get an

additional compensation of Rs. 18,500/-.

Therefore the M.A.C.A is partly allowed and the claimant is entitled to get an additional compensation of Rs. 18,500/- with 7% interest on the said sum from the date of petition till realisation. The Insurance Company is directed to deposit the same within 60 days from the date of receipt of copy of the judgment.

**M.N. KRISHNAN, JUDGE**

vkm