

Vigil P.P. Vs. Arun and anr

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Court : Kerala

Decided On : Jan-08-2013

Judge : Honourable Mr.Justice Harun-Ul-Rashid

Appellant : Vigil P.P.

Respondent : Arun and anr

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE HARUN-UL-RASHID TUESDAY, THE 8TH DAY OF JANUARY 2013 18TH POUSHA 193 MACA.No. 616 of 2011 () ----- OPMV.105/2007 of M.A.C.T OTTAPALAM APPELLANT/PETITIONER: ----- VIGIL P.P., S/O.KANJANA BALAN, VALIYA VEETIL HOUSE, NARAVOOR P.O. KOOTHUPARAMBU VIA., KANNUR DISTRICT. BY ADV. SRI.SHEJI P.ABRAHAM RESPONDENT/RESPONDENTS: ----- 1. ARUN, S/O.ANTO GEORGE, PARANILAM HOUSE, ST.THOMAS STREET KURIACHIRA VILLAGE, KURIACHIRA DESOM THRISSUR DISTRICT, PIN-680510 (OWNER-CUM-DRIVER OF KL-8-N-7013 MOTOR CYCLE).

2. NATIONAL INSURANCE CO. LTD., BRANCH OFFICE, KOLLANNUR DEVASSY SMARAK BUILDING ROUND NORTH, THRISSUR, PIN-680503 POLICY NO. & CERTIFICATE NO.6669017 VALID FROM 25 8/06 TO 24/8/07. BY ADV. SRI.LAL GEORGE THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 08-01-2013, THE COURT ON THE SAME

DAY DELIVERED THE FOLLOWING: HARUN-UL-RASHID,J.

----- M.A.C.A.NO.616 OF 201.----- DATED THIS THE 8TH DAY OF JANUARY, 2013 JUDGMENT Claimant is the appellant. The appeal is directed against the award in O.P.(MV).No.105/2007 on the file of the Motor Accidents Claims Tribunal, Ottapalam. The Tribunal passed the award allowing the claimant to recover and realise a sum of `41,200/- with interest at 8% per annum. The claimant while walking through the side of the Thrissur -Kuriachira public road on 18/12/2006, the motor cycle bearing Regn.not KL-7 N 701.driven by the 1st respondent in the original petition hit against him and he sustained severe injuries such as head injury, fracture maxilla left, fracture lateral wall orbit (L), cut wound left eye lid, contusion both knee. The claimant was treated as an inpatient for 19 days in the Jubilee Mission Hospital, Thrissur and later in the Medical College Hospital, Kannur. Exts.A2 is the copy of wound certificate and Exts. A6 and A7 are copies of discharge summary cards. Ext.A8 is the certificate advising three months' bed -2- M.A.C.A.NO.616/2011 rest and Ext.A12 is the disability certificate issued by the Orthopaedic Surgeon certifying that the doctor examined the petitioner and assessed the whole body disability at 8%. Ext.A11 series are the medical bills worth `10,108/-. The appellant is aggrieved by the inadequacy of the compensation awarded.

2. Considering the materials on record it is seen that the amount awarded under the head 'loss of earning' is not just and adequate. In Ext.A8 certificate doctor advised the claimant to take three months' rest. The claimant had undergone treatment as an inpatient for 19 days and continued the treatment. In Ext.A12 disability certificate the injuries noticed are very same injuries in Ext.A2 wound certificate. The Tribunal failed to rely on Ext.A12 disability certificate for the reason that doctor was not examined. Since the claimant failed to adduce evidence in support of Ext.A12 disability certificate, the Tribunal is justified in not awarding compensation under the head 'disability'. The claimant was 19 years old at the time of accident. It is stated that he was earning `4,500/- per month. Ext.A2 copy of -3- M.A.C.A.NO.616/2011 the wound certificate and Exts.A6 and A7 discharge summary cards issued by two hospitals show that the claimant sustained serious injuries in the accident. He was treated as inpatient for 19 days. Ext.A12 certificate

was issued by the doctor who examined him on 3/2/2010. The doctor who examined the claimant assessed the whole body disability at 8%.

3. Taking into consideration the aforesaid materials, this Court finds that the compensation awarded under different heads including medical bills at `41,200/- is insufficient. This Court is of the view that the claimant is entitled to a consolidated enhancement of `15,000/-. In the result, the appeal is partly allowed. The appellant is entitled to a total compensation of `56,200/-. The award passed by the Tribunal is modified. The appellant is entitled to additional compensation of `15,000/- with the same rate of interest from the date of petition till the date of realisation. HARUN-UL-RASHID, JUDGE. kcv.

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