

Joy Vs. Biju K. Antony

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Court : Kerala

Decided On : Jan-11-2013

Judge : Honourable Mr.Justice Harun-Ul-Rashid

Appellant : Joy

Respondent : Biju K. Antony

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE HARUN-UL-RASHID FRIDAY, THE 11TH DAY OF JANUARY 2013 21ST POUSHA 193 MACA.No. 1257 of 2011 () ----- (AGAINST THE JUDGMENT IN OPMV.1584/2006 DATED 25 02-2011 ON THE FILE OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, IRINJALAKUDA) APPELLANT(S)/PETITIONER: ----- JOY, S/O. KURIAPPAN, KUNDILINGAL HOUSE,KUMBIDI DESOM,ALATHUR VILLAGE POOVATHUSSERY P.O.,MUKUNDAPURAM TALUK THRISSUR DISTRICT. BY ADV. SRI.P.V.BABY RESPONDENT(S)/RESPONDENTS 1 TO 5.----- 1. BIJU K.ANTONY, S/O. ANTONY, KANNAMPILLY HOUSE,KUMBIDI,POOVATHUSSERY P.O. THRISSUR DISTRICT-680 741.

2. THE NATIONAL INSURANCE CO. LTD., C/O. POPULAR VEHICLES & SERVICES LTD. NEAR LISIE HOSPITAL,ERNAKULAM NORTH,KOCHI-682 018.

3. BOOPATHY K., S/O. KANDASAMY M., 65/4-92 A,KOTTANAKKA VANI PALEM,MALAKAPURAM VISAKHAPATANAM,ANDHRA PRADESH,PIN-530 001.

4. BALAN G., S/O. GANAPATHY KATTU NAICKER, 266,ATHIKKAD,MANICKAMPALAYAM ERODE,TAMIL NADU-638 001.

5. THE NEW INDIA ASSURANCE CO. LTD., NORTH CAR STREET,THIRUCHENGODE,TAMIL NADU-637 211. R2 BY ADV. SRI.M.A.GEORGE R5 BY ADV. SRI.PMM.NAJEEB KHAN THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 11-01-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: al/- HARUN-UL-RASHID,J.

----- M.A.C.A No. 1257 OF 201.----- Dated this the 11th day of January 2013 JUDGMENT The claimant is the appellant. The appeal is directed against the award in O.P.(M.V) No. 1584/2006 on the file of the Motor Accidents Claims Tribunal, Irinjalakuda. The claimant sustained injuries in a motor accident occurred on 18.10.2006. He was a passenger in a car. The car in which the petitioner was traveling was hit upon the rear portion of a lorry AP-31/TT 99.parked on the road side. As a result of the accident, the appellant sustained serious injuries. He was taken to Jubilee Mission Medical College & Research Institute, Thrissur and treated as inpatient for 8 days. He continued treatment in the succeeding months. Considering the injuries sustained in the accident, the Tribunal found that the claimant is entitled to a compensation of Rs. 22,869/-. The claimant was allowed to realise the compensation amount from the respondents jointly and severally, with interest at the rate of 7% per annum from the date of petition till realisation. The claimant claimed Rs. 1,02,000/- as compensation under different heads, but limited his claim for Rs. 50,000/-. M.A.C.A.No.1257/201

2. The appellant is aged 38. According to him he is earning Rs.5,000/- per month. The Tribunal fixed the monthly income at the rate of Rs.2,000/-. Rs. 6,000/- was awarded under the head loss of earning. Fixation of Rs.2,000/- as monthly income is not just and reasonable. Therefore, this Court refixed the compensation under the head of loss of earning, calculated at Rs.3,000/- per month for three months.

Petitioner is thus entitled to a compensation of Rs. 9,000/- for loss of earning. Deducting the amount awarded, the petitioner is entitled to additional compensation of Rs.3,000/- under this head. For pain and suffering the court below awarded Rs.8,000/-. The wound certificate issued by the hospital which shows that the claimant was admitted in the hospital with lacerated wound left forehead and fracture nasal bone. Ext.A4 discharge card would show that petitioner was admitted in the hospital on 18.10.2006 and discharged on 25.10.2006. Ext.A6 medical bills and vouchers shows that the claimant had spent Rs.4,569/- for medical expenses. Considering the nature of the injuries and the probable extent and measure of pain undergone by the petitioner, Rs.8,000/- fixed as compensation for pain and suffering is not just and reasonable. This Court refix the compensation for pain and suffering as Rs. 10,000/- and M.A.C.A.No.1257/2011 3 compensation for discomfort and loss of amenities, this Court find that Rs.3,000/- awarded is inadequate. This Court refix the compensation as Rs.5,000/-. Thus the claimant is entitled to an additional compensation of Rs.7,000/- as loss of amenities. In the result, the appeal is partly allowed. The award under appeal is modified. The appellant is entitled to an additional compensation of Rs.7,000- with interest at the rate of 7% per annum from the date of petition till realisation. In all other respects, the award passed by the Tribunal shall stand. Sd/- HARUN-UL-RASHID JUDGE al/-

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