

**Satheesh Vs. Shine**

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**SooperKanoon Citation :** [sooperkanoon.com/1013746](http://sooperkanoon.com/1013746)

**Court :** Kerala

**Decided On :** Jul-03-2013

**Judge :** Honourable Mr.Justice S.Siri Jagan

**Appellant :** Satheesh

**Respondent :** Shine

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.SIRI JAGAN & THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN WEDNESDAY, THE 3RD DAY OF JULY 2013 12TH ASHADHA, 1935 MACA.No. 1205 of 2013 () ----- (OP. (MV)NO. 339/2003 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, MAVELIKKARA) -----

APPELLANT/PETITIONER: ----- SATHEESH, ALATINAL KIZHAKKEKKARA VEEDU, ADIKKATTUKULANGARA KURI, PALAMEL. BY ADVS.SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL) SRI.A.R.DILEEP SRI.MANU SEBASTIAN RESPONDENT(S)/RESPONDENTS:

----- 1. SHINE, PARAKUNNATHUKUDI VEEDU, ERNAKULAM KARA, ERNAKULAM (NEAR NIRMALA COLLEGE, ERNAKULAM)-682 011.

2. K.S.R.T.C., REP. BY ITS MANAGING DIRECTOR, TRIVANDRUM-695 001.

3. NATIONAL INSURANCE COMPANY LTD., REPRESENTED BY ITS DIVISIONAL MANAGER, DIVISIONAL OFFICE, KAYAMKULAM

502. R2 BY ADV. SMT.BIMALA BABY SC KSRTC R3 BY ADV. SRI.M.A.GEORGE,SC THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 03-07-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: sts S. SIRI JAGAN & K. RAMAKRISHNAN, JJ.

----- M.A.C.A. No.1205 of 2013 -----  
----- Dated this the 3rd day of July, 2013 -----

### JUDGMENT

S. Siri Jagan, J The claimant in O.P.(M.V). No.339/2003 before the Motor Accidents Claims Tribunal, Mavelikkara, is the appellant herein. He sustained injuries in an accident caused by the negligent driving a vehile owned by the 2nd respondent, driven by the 1st respondent and insured with the 3rd respondent. The tribunal, after finding negligence on the part of the driver of the vehicle, awarded compensation under various heads as follows: Sl. Head of claim Amount No. awarded` 1 Loss of earning

2. Medical miscellaneous expense

3. Bystanders expense

4. Transportation charges and other

5. Extra nourishmen

6. Pain and suffering

7. Loss of amenities in lif

8. Disability incom

9. Any other heads (review) 500 Total 110060 rounded to 110100 Dissatisfied with the quantum of compensation awarded, the appellant has filed this appeal, seeking enhanced M.A.C.A. No.1205 o

2. compensation. It is submitted that the appellant suffered serious injuries to his left leg as well as his right hand. He was only 29 years old at the time of the accident. The doctor who issued Ext.A7 disability certificate, certified 17% physical disability. But the tribunal has accepted only 11%. According to the appellant, the appellant is entitled to more compensation under all heads.

2. We have heard the counsel for the insurance company as well. Although, the appellant had produced Ext.A7 disability certificate, he did not take any steps to prove the same. The tribunal had occasion to see the appellant personally and the tribunal came to the conclusion that the disability suffered by the appellant is of minor nature. In such circumstances, we do not find anything wrong with the tribunal fixing 11% as the disability for the purpose of calculating loss of earning capacity. All correct parameters have been adopted for calculating loss of earning capacity as well. Therefore, we are not inclined to interfere with the compensation fixed by the tribunal for loss of earning capacity. But we find that for 11% disability, the appellant would have some difficulties in his personal life, for which, the M.A.C.A. No.1205 o

3. compensation of 10,000/- under the head loss of amenities is slightly on the lower side. Therefore, we are inclined to enhance it to 15,000/-. Despite the persuasive arguments of the learned counsel for the appellant, we are unable to persuade ourselves to hold that the compensation fixed under other heads are on the lower side. Therefore, we are not inclined to enhance the compensation under other heads. Accordingly, the appellant would be entitled to 5,000/- as additional compensation, over and above what has been awarded by the tribunal. This amount would carry interest at the rate of 9% per annum from the date of the claim petition, till date of payment. The 3rd respondent insurance company is directed to deposit that amount also within two months. With the above modification of the impugned award, the appeal is disposed of. Sd/- S. Siri Jagan, Judge Sd/- K. Ramakrishnan, Judge // True Copy // P.A. To Judge ss