

**C.N.Gopalakrishnan Vs. Santhoshkumar**

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**Court :** Kerala

**Decided On :** Oct-30-2014

**Judge :** Honourable Mr. Justice a.K.Jayasankaran Nambiar

**Appellant :** C.N.Gopalakrishnan

**Respondent :** Santhoshkumar

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR & THE HONOURABLE SMT. JUSTICE P.V.ASHA THURSDAY, THE 30TH DAY OF OCTOBER 2014 8TH KARTHIKA, 1936 MACA.No. 1694 of 2009 (B) ----- AGAINST THE AWARD IN OPMV24622004 of M.A.C.T.,ERNAKULAM DATED 29-12-2008 APPELLANT/PETITIONER: ----- C.N.GOPALAKRISHNAN, AGED 52 YEARS, S/O.NARAYANAN MOOPAN, KAITHAVALAPPIL, III WARD KANJIKUZHI PANCHAYATH, CHERTHALA NOW RESIDING AT ELAMAKKARA, COCHIN-26. BY ADVS.SRI.K.JANARDHANAN SRI.MANURAJ.

K.J RESPONDENT(S)/RESPONDENTS: ----- 1.  
SANTHOSHKUMAR SATHYAVILASOM, S.N.PURAM P.O.,  
CHERTHALA.(DELETED\*) 2. K.P.ANILKUMAR, S/O.PURUSHOTHAMAN,  
ANUPAMA, M.D.S., VAIKOM.

3. UNITED INDIA INSURANCE CO.LTD., N.S.S.UNION BUILDINGS, CHERTHALA, C/O.CLAIM OFFICE M.G.ROAD, ERNAKULAM. (\* R1 US DELETED FROM THE PARTY ARRAY,AT THE RISK OF THE APPELLANT VIDE

ORDER

DATED DATED1310.2014 IN I.A.2747/2014) R3 BY STANDING COUNSEL SRI JOHN JOSEPH VETTIKAD THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON3010-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: T.R.RAMACHANDRAN NAIR & P.V ASHA, JJ.

----- M.A.C.A No.1694 of 2009-B

----- Dated this the 30th day of October, 2014

JUDGMENT

**Ramachandran Nair, J.**

The appellant who was injured in an accident is aggrieved by the fixation of quantum of compensation. As against the claim of Rs.6,91,000/- for compensation, the Tribunal has granted only Rs.2,26,000/-. The injured was at the age of 48 years at the time of the accident. As a result of the accident, he sustained serious injuries to his left leg. The same resulted in amputation of one leg below knee. The accident occurred on 25.06.2004 while he was waiting near Puthenchanda bus stop. An autorickshaw knocked him down causing the injuries.

2. He was engaged in the sale of old newspaper items in Ernakulam market. Monthly income claimed is Rs.2,500/-.

3. The learned counsel submitted that the Tribunal has granted Rs.1,05,600/- alone as the total compensation for M.A.C.A No.1694 of 2009-B2 permanent disability and the amount under various heads is also too low considering the seriousness of the injuries and the fall out of the same on his body.

4. We find from the discussion at para.8 of the judgment that adopting MC Bride's scale, the disability has been assessed at 40%. It appears that no separate

disability certificate was produced, but the Tribunal has rightly assessed the disability at 40%, as the leg was amputated below knee.

5. In the light of the fact that monthly income claimed is Rs.2,500/-, as the income from selling old newspapers, the same could have been accepted by the Tribunal. It is also seen that the accident has resulted in amputation. Therefore, even though there was no separate claim for the replacement, by way of artificial limb, we find that as against the claim of Rs.25,000/- towards medical expenses, no amount has been granted. It is a matter of common knowledge that the person will have to utilize the artificial limb. Therefore, a reasonable amount for purchase of artificial limb can be granted and we fix an amount of Rs.7,500/- towards that head.

6. The Tribunal has assessed the compensation in the following manner: M.A.C.A No.1694 of 2009-B3Sl. Head of claims Amt. No. 1 Hospitalisation, transportation, Rs. 5,000.00 damage to clothing & articles and extra nourishment 2 Attendant expenses Rs. 4,500.00 3 Loss of earnings Rs. 15,000.0 4 Treatment expenses Rs. 1,000.00 5 Pain and suffering Rs. 35,000.00 For discomforts and any Rs. 35,000.00 6 inconvenience 7 Reduction of earnings on Rs. 1,05,600.00 account of permanent and partial disability 8 Reduction in happiness, the Rs. 15,000.00 enjoyment in life and social disability 9 Future treatment expenses Rs. 10,000.00 Total Rs.2,26,100/- 7. By taking Rs.2,500/- as monthly income and taking 40% as permanent disability, the total compensation for the reduction of earnings on account of permanent and partial disability will be Rs.1,56,000/-. Even though the learned counsel for the appellant submitted that for loss of enjoyment of life and social disability, the amount awarded is too low, we find that Rs.35,000/- has been granted towards discomforts and inconvenience, and another amount of Rs.15,000/- has been granted towards reduction in happiness, enjoyment in life and social disability which are reasonable. For treatment expenses what is granted is only Rs.1,000/- and for attendant expenses in M.A.C.A No.1694 of 2009-B4total Rs.4,500/- is granted. We grant an amount of Rs.10,000/- in total towards these 2 items of claims. As far as pain and suffering is also concerned, we slightly enhance the amount and refix the compensation as Rs.45,000/- considering the seriousness of injury, periods of treatment as inpatient and outpatient. Accordingly

we refix the compensation in the following manner: Sl. Head of claims Amt. No . 1 Hospitalisation, transportation, Rs. 5,000.00 damage to clothing & articles and extra nourishment 2 Attendant expenses & Rs. 10,000.00 treatment expenses 3 Loss of earnings Rs. 15,000.00 4 Pain and suffering Rs. 45,000.00 5 For discomforts and Rs. 35,000.00 inconvenience 6 For artificial limb Rs. 7,500.00 7 Reduction of earnings on Rs.1,56,000.00 account of permanent and partial disability 8 Reduction in happiness, the Rs. 15,000.00 enjoyment in life and social disability 9 Future treatment expenses Rs. 10,000.00 Total Rs.2,98,500/- The appeal is allowed accordingly. There will be a direction to the Insurance Company to deposit the award amount (less the M.A.C.A No.1694 of 2009-B5 amount if any paid) within three months and on such deposit being made, the claimant can withdraw the amount. No costs. Sd/- T.R.RAMACHANDRAN NAIR Judge Sd/- P.V.ASHA Judge rtr/ /true copy/ P.S to Judge

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