

Nishad vs Roy

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Court : Kerala

Decided On : Mar-10-2022

Judge : Honourable Mr.Justice C. Jayachandran

Appeal No. : MACA/917/2019

Appellant : Nishad

Respondent : ROY

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN
THURSDAY, THE 10TH DAY OF MARCH 2022 / 19TH PHALGUNA,
1943 MACA NO. 917 OF 2019 AGAINST THE AWARD DATED 11-05-
2017 IN OPMV 326/2010 OF MOTOR ACCIDENT CLAIMS TRIBUNAL,
THRISSUR. APPELLANT/PETITIONER : NISHAD, AGED 27 YEARS,
S/O.KUNJUMUHAMMED, VALIYAKATH HOUSE, CHERPU DESOM,
CHERPU P.O, THRISSUR TALUK AND DISTRICT. SHEJI P.ABRAHAM
SMT.THUSHARA PAILY RESPONDENTS/RESPONDENTS : 1 ROY,
AGED 44 YEARS, S/O. CHAKKUNNY, NELAMKAVIL HOUSE, P.O
KANJANI, THRISSUR-680 321. 2 N.D CHAKKUNNY, S/O. DEVASSY,
NEELAMKAVIL HOUSE, P.O. KANJANI, THRISSUR-680321. 3 THE

NATIONAL INSURANCE COMPANY LIMITED, KOLLANNUR DEVASSY SMARAK BUILDING, ROUND NORTH, THRISSUR-680 001. R2 BY SRI.K.B.GANGESH R3 BY SMT.P.K.SANTHAMMA THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 10.03.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: MACA No.917 of 2019 - 2 -

C.JAYACHANDRAN, J.

----- M.A.C.A.No.917 of 2019 -----

Dated, this the 10th day of March, 2022

JUDGMENT

The appeal against the award of the Tribunal is only on the quantum. After hearing the matter for some time, based on the precedents, this Court was of the opinion that enhancement can be granted only on certain heads. Suggestions for settlement were put to the learned Counsel appearing for the claimant and the learned Standing Counsel for the Insurance Company. Both having agreed to the suggestions made by this Court, the following enhancement is made as per the tabulation below:

Sl.	Head of Claim	Amount awarded	Total amount
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appeal (Rs.)

1	Loss of earnings	22500	
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articles 5 Medical Expenses and 2600 2600 miscellaneous expenses MACA No.917 of 2019 - 3 -

6	Bystander expenses	1250	1250
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Amount enhanced = Rs.56,100/- (209180-153080)

2. The Insurance Company shall pay interest for the

amounts awarded by the Tribunal at the rate directed in the impugned award and for the enhanced amounts at the rate of 5% from the date of petition. If any amounts have already been paid, the same shall be granted set off. Since there was a delay of 426 days in filing the appeal, the interest for the enhanced quantum shall not run for the said period. The claimants shall produce the details of the Bank account before the Insurance Company/Tribunal within one month from the date of receipt of a certified copy of this judgment and amount shall be transferred to the Bank account directly through NEFT/RTGS mode, within a period of one month thereafter. If the Bank account is not furnished within the time stipulated, it is made clear that no interest shall run on the enhanced amount MACA No.917 of 2019 - 4 - after the period stipulated by this Court. However, if the Insurance Company fails to deposit the amount as directed, interest on enhanced amount shall also run at the rate ordered by the Tribunal from the date of petition. The appeal is allowed as indicated above. Sd/- C.JAYACHANDRAN JUDGE jg

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