



MACA No.783 of 2021

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2025:KER:17148

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

THURSDAY, THE 27TH DAY OF FEBRUARY 2025 / 8TH PHALGUNA, 1946

MACA NO. 783 OF 2021

AGAINST THE AWARD DATED 09.10.2020 IN O.P.(M.V.) NO.40 OF
2019 OF ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, NORTH PARAVUR

APPELLANT/PETITIONER :

POULOSE
AGED 56 YEARS
S/O. ANTONY, SANKOORICKAL HOUSE,
KARINGAMTHURUTHU KARA, ALANGAD VILLAGE.

BY ADV A.N.SANTHOSH

RESPONDENT/2ND RESPONDENT :

NATIONAL INSURANCE COMPANY LIMITED
DIVISIONAL OFFICE, URUMBATH BUILDING, ALUVA,
ERNAKULAM DISTRICT, 683 101,
REPRESENTED BY ITS MANAGER.

BY ADV P.A.REZIYA, SC

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR HEARING
ON 27.02.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

This appeal arises out of the award in O.P.(M.V.) No.40 of 2019 on the files of the Additional Motor Accidents Claims Tribunal, North Paravur.

2. The brief facts for disposal of the appeal are as follows :

On 11.8.2018, while the appellant, claiming to be a Plumber, was standing at the side of Kochal-Karingamthuruth road, a scooter bearing Registration No.KL-42/H-9197, ridden by the 1st respondent in the claim petition in a rash and negligent manner, hit the petitioner, and thereby, he sustained serious injuries. Immediately after the accident, he was taken to Lourdes Hospital, Ernakulam and treated there as an inpatient from 11.8.2018 to 22.8.2018. He was again treated there from 11.12.2018 to 12.12.2018. In support of his contentions, the appellant produced Exts.A1 to A13 documents before the tribunal. The insurance company did not adduce any evidence before the tribunal. The appellant also contended that on account of the injuries sustained by him in the accident, he sustained permanent disability which was sought to be proved through Ext.A7 Disability Certificate. Even though Ext.A7 shows that the appellant sustained 13% disability,



while granting compensation, the tribunal awarded compensation towards 15% occupational disability. The tribunal, on appreciation of the evidence, found that the appellant could not adduce any evidence to prove the income and therefore fixed the income notionally at Rs.11,000/- and awarded compensation as follows:

Sl. No.	Head of claim	Amount Claimed (₹)	Amount awarded (₹)	Basis-vital details in a nutshell
1	Loss of earning for 1 year	2,40,000	66,000	11,000x6
2	Partial loss of earning	--	--	--
3	Transport to hospital	20,000	10,000	Para 12
4	Extra Nourishment	25,000	10,000	Para 13
5	Damage to clothing and articles	5,000	1,500	Para 14
6	Bystanders' expenses	1,20,000	21,000	750x28
7	Medical expenses	3,00,000	36,000	Para 16
8	Future Medical Expenses	1,00,000	--	--
9	Pain and suffering	3,00,000	50,000	Para 17
10	Compensation for loss of comfort and amenities	3,00,000	30,000	Para 17
11	Compensation for permanent disability	8,00,000	2,17,800	Para 21
12	Compensation for disfiguration	1,00,000	Nil	
	Total	23,10,000/- But claim is limited to 15,00,000/-	₹4,42,300/-	



3. Heard Sri. A.N.Santhosh, the learned counsel appearing for the appellant and Smt. P.A. Reziya, the learned Standing Counsel appearing for the insurance company.

4. On consideration of the rival submissions raised across the Bar, this Court is of the considered view that the claimant is entitled to succeed. The notional income fixed by the tribunal is, per se, unsustainable in the light of the decision of the Hon'ble Supreme Court in **Angad Tiwari and Another Vs. National Insurance Co. Ltd.** [Civil Appeal No.10950/2024 dated 1-10-2024] [2024 KHC OnLine 8590]. In G.O.(P) No.56/2017/Fin. dated 28.4.2017, the State of Kerala has fixed the minimum wage of a Plumber at Rs.18,900/-. Therefore, this Court is of the considered view that the appellant is entitled to have his income fixed at Rs.18,900/-. Similarly, under the non-conventional heads also, the appellant/claimant is entitled to reasonable enhancement considering the nature of injuries suffered by him.

5. Hence the appeal is allowed. The appellant is entitled to get enhanced compensation as follows:



Sl. No.	Head of claim	Amount awarded by this Court (₹)	Amount awarded by the tribunal (₹)	Enhanced compensation
Income of the appellant is fixed at Rs.18,900/-				
1	Loss of earning	1,13,400 18900x6	66,000	47,400
2	Pain and sufferings	65,000	50,000	15,000
4	Compensation for loss of comfort and amenities	45,000	30,000	15,000
5	Compensation for Permanent disability	3,74,220 18900x12x11 x15/100	2,17,800	1,56,420
Total enhanced compensation				2,33,820/-

6. Accordingly, the appellant is entitled to get an amount of Rs.2,33,820/- (Rupees Two Lakh Thirty Three Thousand Eight Hundred and Twenty only) as enhanced compensation with 8% interest per annum from the date of petition (28.1.2019) till realization with proportionate cost. The insurance company shall deposit the amount within a period of two months from the date of receipt of a copy of this judgment. If the amount is not deposited, the interest shall accrue to run till realization.

Appeal ordered accordingly.

Sd/-
EASWARAN S.
JUDGE