

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 7TH DAY OF FEBRUARY 2023 / 18TH MAGHA, 1944

MACA NO. 1977 OF 2012

AGAINST THE ORDER/JUDGMENT OPMV 886/2008 OF MOTOR ACCIDENT

CLAIMS TRIBUNAL , IRINJALAKUDA

APPELLANT/PETITIONER:

KALUKUTTY
W/O.PAZHANAM, ANGOOTIL VEETIL ALAMPARITHA DESOM,
KANIYAMANGALAM VILLAGE, ELUVUPADAM P.O.,
PALAKKAD DISTRICT.

BY ADVS.
P.V.BABY
A.N.SANTHOSH

RESPONDENTS/RESPONDENTS:

- 1 P.M. JOHN
S/O.MATHAI, OTHUPARAMBIL HOUSE, VAZHOOR PULIKKAL
KAVALA DESOM, VAZHOOR VILLAGE,
KOTTAYAM DISTRICT - 686504
- 2 THE MANAGING DIRECTOR,
KERALA STATE ROAD TRANSPORT CORPORATION,
THIRUVANANTHAPURAM - 695002
BY ADV ALEX ANTONY SEBASTIAN P.A.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 07.02.2023, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

M.A.C.A.No.1977 of 2012

: 2 :

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DEVAN RAMACHANDRAN, J.

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M.A.C.A.No. 1977 of 2012

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Dated this the 7th day of February, 2023

JUDGMENT

The appellant, a lady of 61 years, was traveling in a bus owned by the Kerala State Road Transport Corporation (KSRTC) on 24.08.2006, when, on account of a rash application of brake by its driver, she was thrown off from her seat, thus suffering grievous injuries.

2. The appellant asserts that she had to undergo extensive treatment, being bedridden and under extreme trauma, for a long period of time; and therefore, that she was justified in having approached the Motor Accidents Claims Tribunal, Irinjalakuda ('Tribunal' for short), by filing O.P(MV)No.886 of 2008, seeking compensation of nearly Rs.2 Lakhs; but which has been allowed by the Tribunal, by grant of a mere Rs.40,214/- .

3. The appellant predicates that the amount granted by the Tribunal is so exiguous, that it obtains no reasonable nexus to the injury which she suffered, particularly because her future life has been very severely impaired. She thus prays that the impugned

M.A.C.A.No.1977 of 2012

: 3 :

Award of the Tribunal be set aside and the amounts sought for by her be granted.

4. In response to the afore submissions of Sri.P.V.Baby - learned counsel for the appellant, Sri.Alex Antony Sebastian - learned Standing Counsel for the KSRTC, vehemently asserted that the compensation granted by the Tribunal is irreproachable, especially because the appellant was a house wife, without any income. He submitted that, therefore, when the appellant herself conceded that she had no income, nothing more would have been granted by the Tribunal, in excess of what has been now awarded. He thus prayed that this Appeal be dismissed.

5. At the outset, I must say that the contentions of the KSRTC, that a housewife earns no income and therefore, not eligible for compensation for disability and loss of amenities, is outrageous and beyond comprehension. The role of a mother and wife at home is beyond compare, and she is a true nation builder. She invests her time for the family and ensures that the next generation is fostered with the highest levels of excellence; and her efforts can never be taken trivially or brushed aside, as being without monetary value. The lives of human beings are never tested on the scales of their monetary worth, but by their contribution and selflessness.

6. In such perspective, the monetary compensation for an

M.A.C.A.No.1977 of 2012

: 4 :

injury caused to a housewife will have to be measured and weighed on the same scales, as it would be, had she been a working woman - if not more.

7. That said, in **Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Ltd. [(2011) 13 SCC 236]**, the Hon'ble Supreme Court has held that, in the case of a person whose income is unascertainable in the year 2006 - when the accident occurred - the reasonable standard to be reckoned would be Rs.5,500/- per month. Though, as I have already said above, no amount could really compensate the effort of a mother or wife at home, I am of the certain view that the Tribunal ought to have adopted at least this figure for the grant of a just and equitable compensation.

8. Moving on, Ext.A4 - wound certificate discloses that the appellant suffered from spinal fracture, leading to its compression, leaving her with difficulty in breathing and pain all over the body. It is the uncontroverted evidence on record, including her own deposition, that she was bedridden and suffering from acute pain for a long period of time, which finds resonance in Ext.A7 - disability certificate and Ext.A8 - discharge certificate. When one examines Ext.A7 - disability certificate, it ineluctably records that the appellant suffered from a malunited fracture on the vertebra,

M.A.C.A.No.1977 of 2012

: 5 :

with loss of more than 50% movement; with back pain and stiffness, leading to limitation of the movement of the spine also to the extent of 25%, added with difficulty in breathing. In spite of this, the report records that she has only suffered 12% disability.

9. However, the learned Tribunal, merely for the reason that Ext.A7 was not proved by the appellant by examining the doctor who issued the same, refused to accept its contents, though it is clear from the evidence and the materials on record that KSRTC did not object to it in any manner whatsoever.

10. Hence, when the learned Tribunal itself records that appellant was unable to perform her "routine work" because of the spinal injury and trauma, one fails to gather how very exiguous amounts had been granted to her under the head "pain and suffering"; while, compensation under the heads "loss of amenities" and "disability" has been totally denied.

11. As held above, this Court takes the notional income of the appellant, at the time of the accident, to be Rs.5,500/- per month, guided by the declarations in **Ramachandrappa (supra)**; and proposes to grant Rs.50,000/- as claimed by her under the head "pain and sufferings"; along with Rs.15,000/- towards "loss of amenities and convenience". Going by the income so reckoned, the compensation for disability to the appellant, adopting the multiplier

M.A.C.A.No.1977 of 2012

: 6 :

7, as per the ratio in **Sarla Verma v. Delhi Transport Corporation [2010 (2) KLT 802 (SC)]**, she would be entitled to Rs.55,440/-. As a corollary to this, the amount awarded by the Tribunal towards “loss of earning” for four months would stand revised to Rs.22,000/-, instead of Rs.2,000/-. In all other respects, the Award of the Tribunal will stand confirmed.

Resultantly, this appeal is allowed in part, granting the appellant a total compensation of Rs.1,64,654/-, instead of Rs.40,214/- awarded by the Tribunal; which she will be entitled to recover from the KSRTC, along with interest at the rate of 7.5% per annum as ordered by the Tribunal, from the date of the petition till realization, along with proportionate costs on the enhanced amounts.

**Sd/-
DEVAN RAMACHANDRAN
JUDGE**

mc/anm