



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

WEDNESDAY, THE 3RD DAY OF DECEMBER 2025 / 12TH AGRAHAYANA, 1947

MACA NO. 2619 OF 2021

AGAINST THE AWARD DATED 26.08.2020 IN O.P.(M.V.) NO.2950 OF 2016
OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, THIRUVANANTHAPURAM.

APPELLANT/3RD RESPONDENT:

THE DIVISIONAL MANAGER,
RELIANCE GENERAL INSURANCE COMPANY LIMITED,
3RD FLOOR, 5TH LEVEL TRANS TOWERS, VAZHUTHACAUD,
THYCAUD P.O., THIRUVANANTHAPURAM, NOW REPRESENTED
BY ITS MANGER, LEGAL-CLAIMS, REGIONAL OFFICE,
VISHNU BUILDING, K.P. VALLON ROAD,
KADAVANTHARA P.O., KOCHI - 682 020.

BY ADVS.
SRI.MATHEWS JACOB (SR.)
SRI.P.JACOB MATHEW
SMT.PREETHI R. NAIR.

RESPONDENT/PETITIONER:

AMEER HAMSA,
AGED 70 YEARS, S/O. MUHAMMED MUSTHAFI,
SAMEENA MANZIL, 319, KARAKULAM P.O.,
KACHANI, THIRUVANANTHAPURAM - 695 564.

BY ADVS.
SRI.A.R.NIMOD
SRI.M.A.AUGUSTINE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 03.12.2025, ALONG WITH MACA.3693/2021, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

WEDNESDAY, THE 3RD DAY OF DECEMBER 2025 / 12TH AGRAHAYANA, 1947

MACA NO. 3693 OF 2021

AGAINST THE AWARD DATED 26.08.2020 IN O.P.(M.V.) NO.2950 OF
2016 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, THIRUVANANTHAPURAM.

APPELLANT/PETITIONER:

AMEER HAMSA,
AGED 70 YEARS, S/O. MUHAMMED MUSTHAFI,
SAMEENA MANZIL, 319, KARAKULAM P.O.,
KACHANI, THIRUVANANTHAPURAM - 695564.

BY ADVS.
SRI.A.R.NIMOD
SRI.M.A.AUGUSTINE

RESPONDENTS/RESPONDENTS:

- 1 RAJESH R. T.,
S/O. RAJENDRAN, 11/496, KADUTHARIS VEEDU,
KALLIYOOR P. O., TVPM - 695042.
- 2 SHAMEER A.,
S/O. ABDUL AZEEZ, BEEMANTE MUDUMBU VEEDU,
PACHALLOOR P.O., TVPM - 695027.
- 3 THE DIVISIONAL MANAGER,
RELIANCE GENERAL INSURANCE CO. LTD.,
3RD FLOOR, 5TH LEVEL, TRANS TOWERS,
VAZHUTHACAUD, THYCAUD P.O.,
THIRUVANANTHAPURAM - 695014.



BY ADVS.

SRI.MATHEWS JACOB (SR.)

SRI.P.JACOB MATHEW

SMT.PREETHI R. NAIR.

SMT.K.S.SANTHI.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 03.12.2025, ALONG WITH MACA.2619/2021, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

**C.R.****J U D G M E N T**

These two cross appeals are filed by the claimant as well as the insurance company, challenging the award of the Motor Accidents Claims Tribunal, Thiruvananthapuram (hereinafter referred to as 'the Tribunal'), dated 26.08.2020 in O.P.(M.V.) No.2950 of 2016.

2. The claimant – Ameer Hamsa, met with an accident on 24.06.2016, while he was walking along the Kamaleswaram – Thiruvallom main road. He suffered serious injuries. He filed the claim petition before the Tribunal, essentially contending that he was working as a Quality Control Officer in Saudi Arabia and earning a monthly income of around Rs.75,000/-. Various documents were also produced in support of the afore claim. The Tribunal, by the impugned award, found that insofar as no authenticated document was produced in support of the claim as regards the monthly income, as well as the educational qualifications, only an amount of Rs.15,000/- per month could be fixed as the notional income of the claimant. Similarly, as



regards the disability certificate at Ext.A16, which quantified the permanent disability at 88%, the Tribunal, after noticing the fact that the claimant was 'mobilised in a wheel chair' and that he was not in a position to speak with clarity or walk without support when he was produced before the Tribunal, ultimately assessed the functional disability at 75% for the purpose of determining the compensation. In such circumstances, against the total claim of Rs.40,00,000, the Tribunal has awarded an amount of Rs.30,79,320/-.

3. Sri.Mathews Jacob, the learned senior counsel for the appellant – insurance company, assisted by Smt.Preethy R.Nair would contend that the fixation of the notional income of the claimant at Rs.15,000/- per month by the Tribunal was without any justification. He would also contend that insofar as no valid evidence as regards the claim of monthly income of Rs.75,000/- was produced, the Tribunal, at best, could have only awarded the compensation in accordance with the principles laid down by the Apex Court in ***Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company***

***Limited [(2011) 13 SCC 236].***

4. *Per contra*, Sri.A.R.Nimod, the learned counsel for the claimant, while supporting the award of the Tribunal insofar as the appeal preferred by the insurance company is concerned, would contend that the notional income requires to be enhanced, taking note of the continued employment of the claimant in Saudi Arabia, as borne out from various documents. He further relied on the disability quantified by the Medical Board, constituted pursuant to the orders of this Court, as per which, the disability has been quantified at 90%, and prayed for fixation of the disability on the basis of the afore certificate. He would also contend that, with reference to the disability quantified as above, even for future periods, the claimant was entitled for bystander expenses, and this has not been taken into account by the Tribunal while passing the impugned award. He would also contend that the award of compensation of Rs.2,00,000/- for 'pain and suffering' and Rs.4,00,000/- for 'loss of amenities in life' were not in tune with the requirements, going by the disability quantified as above. He



would also rely on judgments of the Apex Court in **Kavin v. P. Sreemani Devi and Ors. [2025 (5) KLT 54 (SC)]**, **Jithendran v. New India Assurance Co. Ltd. and Another [2021 ACJ 2736]**, and the Order dated 21.05.2025 in Civil Appeal No.007057 arising out of SLP(C) No.13665 of 2020 in support of the afore contentions.

5. I have considered the rival contentions as well as the connected records.

6. The first issue arising for consideration in both these appeals is as regards the fixation of the notional income of the claimant. As already noticed, the claimant pointed out that he was having a monthly income of Rs.75,000/-, whereas the Tribunal fixed it at Rs.15,000/-. It is true that the learned senior counsel is justified in contending that no valid documents, with reference to the provisions of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948, (hereinafter referred to as the 'Act, 1948') were produced by the claimant before the Tribunal. However, in my opinion, even in such a situation, certain factual aspects cannot be lost sight of. This



Court notices Ext.A24 – the appointment letter from Saudi Paper Manufacturing Company, Dammam – appointing the claimant with a monthly salary of 2,500 Saudi Riyals. The claimant has also relied upon Exts.A25 and A26 ID cards, of which Ext.A26 is an ID card issued by NORKA. This Court also notices that the claimant has also relied on Ext.A19, the bank statement for the period from January 2003 to December 2018. A perusal of the bank statement as above would show that periodical remittances were being made from abroad of substantial amounts. This Court further notices the credit of an amount in excess of Rs.6,19,000/- made on 03.03.2016, hardly three months prior to the accident. Similarly, during January, April, June, July, and December of the year 2015, substantial amounts in excess of rupees one lakh each were transferred to the NRI account of the claimant with the Syndicate Bank, Fort, Thiruvananthapuram. When the afore bank statements are analysed with reference to the appointment letter at Ext.A24, averments contained in the claim petition, as well as Ext.A17 attested copy of passport, it



is evident that the claimant was frequently travelling between India and Saudi Arabia. The fact that the claimant came back to India on 06.03.2016 is also categorically recorded in paragraph No.9 of the award of the Tribunal. In the light of the afore, I am of the opinion that, though no salary certificate, much less a certificate in accordance with the provisions of the Act, 1948, has been relied on by the claimant, a reasonable estimation requires to be carried out as regards the notional income of the claimant in the case at hand. Viewed in that angle, I am of the opinion that the fixation of the notional income at Rs.15,000/- per month by the Tribunal was inadequate. Taking into account the facts and circumstances noticed as above, I am of the opinion that the notional income requires to be re-fixed at an amount of Rs.22,500/- per month, and I do so. Therefore, the appeal filed by the insurance company on this ground is dismissed, and the cross appeal filed by the claimant is allowed.

7. The second common ground in these cross appeals is with respect to the fixation of the disability by the Tribunal. The



learned Senior Counsel for the insurance company would point out that the fixation of the disability at 75% for the purpose of determining compensation by the Tribunal was without justification. He would also point out that, insofar as the claimant was produced before the Tribunal, though on a wheelchair, there was no need for fixing the functional disability at 75% as done by the Tribunal. At the same time, this Court notices that, pursuant to an order passed by this Court, the claimant was examined by the Medical Board at the Medical College Hospital, Thiruvananthapuram. A report dated 18.10.2024 has also been placed on record. The Medical Board, after examining the claimant, found that he had disability by reason of 'psychiatric impairment' due to Major Neurocognitive disorder on account of the traumatic brain injury. On the basis of the afore, and with reference to the provisions of the Rights of Persons with Disabilities Act, 2016, the disability has been quantified at 90% by the Medical Board. I have perused the disability certificate produced as above. This Court notices that the Medical Board has quantified the disability at 90%. At the



same time, in the award, the Tribunal has categorically found that the claimant was being mobilised in a wheelchair, he could not speak with clarity, and was unable to walk without support. When the afore factual position, as recorded by the Tribunal, is analysed with reference to the findings of the Medical Board, I am of the opinion that the brain injury suffered by the claimant, on account of which the claimant is found to have 'psychiatric impairment', has to be accepted and, the permanent disability of 90% has to be taken as a case of 100% functional disability. This is especially so, since the claimant, aged 75 years, on account of the traumatic brain injury, cannot live independently without help, essentially because he has psychiatric impairment, as certified by the Medical Board. Therefore, the challenge by the insurance company against the fixation of the disability at 75% is disallowed, and the challenge by the claimant is accepted, holding that the functional disability has to be quantified at 100%.

8. The other subsisting issues are with reference to the appeal filed by the claimant. The claimant would rely on the



disability certificate issued by the Medical Board, noticed as above, to contend that he is entitled to compensation with respect to bystander expenses for the future periods. In support of this contention, Sri.Nimod, relied on the judgment of the Apex Court in Civil Appeal No.013818 of 2025 arising out of SLP(C) No.26641 of 2025, dated 07.11.2025. True, the Apex Court, with reference to the facts noticed in that case, held that a person with a quantified functional disability of 100% is entitled to bystander expenses for the future periods also. At the same time, in the case at hand, this Court notices that the accident took place in the year 2016, and presently we are in the year 2025. No sort of evidence has been adduced by the claimant to prove that he has expended any amount towards bystander expenses in the interim period. Similarly, the claimant is around 75 years of age as of now. Unless and until there is evidence to show that any amount has been expended towards bystander expenses after the accident, I am of the opinion that the learned counsel for the claimant is not justified in seeking any award under the afore head.



9. The last issue arising for consideration is with reference to the award of compensation under the heads of 'pain and suffering' and 'loss of amenities in life', which were granted by the Tribunal at Rs.2,00,000/- and Rs.4,00,000/- respectively. The learned counsel would also rely on the judgment of the Apex Court in ***Benson George v. Reliance General Ins. Co. Ltd. and another [2022 ACJ 948]***, as well as the judgment of this Court in M.A.C.A. No.1096 of 2024. This Court notices that in ***Benson George*** (*supra*), the Apex Court granted compensation under the heads of 'pain and suffering' as well as 'loss of amenities', noticing that the claimant therein was bedridden. In the case at hand, this Court is of the opinion that, insofar as adequate compensation under other heads has already been awarded, no valid reasons whatsoever for seeking enhancement under these heads have been pointed out. Therefore, the appeal of the claimant with respect to these two heads is dismissed.

10. In the light of the afore, the claimant would be entitled for the following amounts;



Head of claim for Compensation	Amount claimed (in Rs.)	Amount awarded by MACT (in Rs.)	Additional amount awarded in appeal (in Rs.)	Total compensation (in Rs.)
Part I				
Loss of earnings	5,00,000	1,50,000	75,000	2,25,000 (22,500x10)
Transport to Hospital	1,00,000	50,000	-----	50,000
Extra Nourishment	50,000	5,000	-----	5,000
Damages to clothing and other personal articles	2,000	1,000	-----	1,000
Medical Expenses	20,00,000	15,71,020	-----	15,71,020
Attendant's expense	50,000	27,300	-----	27,300
Part II				
Compensation for Pain and suffering	1,00,000	2,00,000	-----	2,00,000
Compensation for continuing or permanent disability	5,00,000	6,75,000	6,75,000	13,50,000 (22,500x12x5x100%)
Compensation for the loss of earning power	2,00,000	-----	-----	-----
Compensation for loss of amenities in life	5,00,000	4,00,000	-----	4,00,000
Total	40,02,000 Claim is limited to 40,00,000	30,79,320	7,50,000	38,29,320

In the result, M.A.C.A. No.2619 of 2021 is dismissed, and M.A.C.A. No.3693 of 2021 is partly allowed, and the impugned



award is modified, entitling the claimant to get an additional amount of Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand only), along with the amounts already awarded by the Tribunal, to be paid by the Insurance Company. Needless to say, all other findings and directions of the Tribunal in the impugned award, including the rate of interest, will remain unaltered.

Sd/-

HARISANKAR V. MENON
JUDGE

anm