



2026:KER:35025

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

THURSDAY, THE 21ST DAY OF MAY 2026 / 31ST VAISAKHA, 1948

MACA NO. 949 OF 2015

AGAINST THE AWARD DATED 23.11.2013 IN OPMV NO.449 OF 2009
OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, THALASSERY

APPELLANT/PETITIONER:

UMMER C.K.,
S/O.ABOOBACKER A.P.,
AGED 30 YEARS,
CHERIYA KUNHIKANDEELAKATH MADATHIKOVVAL,
P.O.NARATH, KANNUR- 670 603

BY ADVS.
SRI.M.B.SOORI
SHRI.BALAMURALI K.P.
SMT.HARIPRIYA.M

RESPONDENT/RESPONDNT NO.3::

THE ORIENTAL INSURANCE COMPANY LTD.
K.P.K.RIYALTO, THANA, KANNUR - 670 001.

BY ADV SMT.LATHA SUSAN CHERIAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 21.05.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**"C.R"****M.B.SNEHALATHA, J.****M.A.C.A.No.949 of 2015****Dated, this the 21st day of May 2026****JUDGMENT**

Appellant, who is the claimant in O.P(MV) No.449/2009 of Motor Accidents Claims Tribunal, Thalassery (hereinafter referred to as 'the Tribunal'), has filed this appeal seeking enhancement of the compensation awarded by the Tribunal.

2. Appellant's/claimant's case is that on 6.4.2008 at about 9.45 pm., while he was travelling on a motorcycle bearing registration No.KL-13K/8503 and when he reached near Alinkeel at Narath, a car bearing registration No.KL-13M/2813, driven by R1 in the O.P in a rash and negligent manner, hit on the motorcycle and as a result of which the claimant sustained grievous injuries. The accident occurred due to the rash and negligent driving of R1 in the O.P, who was the driver of the offending car. R2 and R3 in the O.P are the RC owner and insurer of the offending car respectively.

3. By the impugned award, a sum of ₹19,54,900/- with 8%



interest per annum was awarded by the Tribunal. Dissatisfied with the quantum of compensation, claimant has preferred this appeal, contending that the claimant, who suffered grievous injuries and whose right leg was amputated above the knee, was awarded only a meager sum by the Tribunal; that the compensation awarded by the Tribunal is not just and fair compensation as mandated by statute. It was contended by the learned counsel for the claimant that though there is a definite finding that the claimant sustained grievous injuries and his right leg was amputated, only a sum of ₹3,47,900/- was awarded for prosthetic leg and no amount was awarded for the periodic replacement of the prosthetic leg and towards maintenance charges. It was further contended that though during the period of accident, the claimant was employed in Sharjah and he was earning ₹25,000/- per month, the Tribunal took the monthly income as ₹4,500/- per month for assessing compensation, which is too low.

4. Per contra, the learned counsel for the respondent insurance company submitted that the Tribunal has awarded just compensation; that the compensation awarded by the Tribunal does not call for any enhancement; that the claimant failed to prove that prior to the accident he was employed abroad and was earning



₹25,000/- and therefore, the Tribunal was right in taking the notional income as ₹4,500/- per month. The learned counsel for the respondent insurance company further contended that the accident took place in the year 2008 and the award was passed in the year 2013; that the claimant has not produced any documents to show that he has incurred any amount for replacement of the artificial limb and therefore, there is no reason to enhance the amount awarded by the Tribunal under the head cost of prosthetic leg.

5. Indisputably, the appellant/claimant met with a motor vehicle accident on 6.4.2008 and he sustained grievous injuries in the said accident. The case of the claimant that the accident occurred due to the rash and negligent driving of the driver of the offending car, is also not in dispute. Admittedly, the offending vehicle was insured with the respondent insurance company/R3 in the O.P.

6. Exts.A2 and A3 medical records produced by the claimant would show that he sustained grievous injuries on his right leg, knee and thigh and his right lower limb was amputated on 12.4.2008. Claimant was aged 24 at the time of accident. Ext.A5 is the disability certificate issued by the medical board to the effect that claimant



sustained 80% permanent whole body disability.

7. It is a well settled principle that a person who sustained injuries and disablement consequent to the motor vehicle accident must not only be compensated for his physical injuries but also for the non-pecuniary loss which he has suffered due to the injuries. The claimant herein, who was only 24 years old at the time of accident, is entitled to be compensated for his inability to lead a full life and enjoy those things and amenities which he would have enjoyed but for the injuries. The purpose of compensation under the Motor Vehicles Act is to adequately restore the aggrieved to the position prior to the accident as best as possible.

8. In a catena of decisions, the Hon'ble Apex Court has emphasized that the mandate under Section 168 of the Motor Vehicles Act is to award just compensation, which must be fair, reasonable and responsive to the actual needs of the injured person. In a claim before the Motor Accidents Claims Tribunal, adequate compensation for prosthetic limb assumes great significance when the injured claimant is a young man standing at the threshold of life. The loss of limb is not confined to physical disability alone; it has far-reaching consequences affecting mobility, earning capacity, marriage



prospects, social confidence and enjoyment of life.

9. Compensation under the Motor Vehicles Act should be 'just compensation' – neither fanciful nor niggardly.

10. Now, let us see whether the appellant/claimant is entitled to get any enhanced compensation.

11. According to the claimant, during the period of accident, he was employed abroad in Sharjah, UAE, as a Manager of a coffee shop and he was drawing a salary of ₹25,000/- per month. In support of his contention that he was employed abroad, he has produced Ext.A4 passport with visa. There is no reason for this Court to disbelieve the case of the claimant that prior to the accident, he was employed abroad. It is true that the claimant has not produced any documents to show that he was drawing a salary of ₹25,000/- from his employment abroad. Though he was unable to produce any documents to show the actual salary drawn by him during his employment abroad, this Court is of the view that the notional income of ₹4,500/- taken by the Tribunal is too low. Accordingly, his income is taken as ₹7,000/- per month for the purpose of assessing compensation.

12. Under the head loss of income, the Tribunal computed



compensation for a period of 24 months. Since the multiplier method is adopted for calculating the compensation under the head of disability, the loss of income during the treatment period can be taken only for a period of 12 months. Therefore, under the head loss of income he is entitled to get only an amount of ₹84,000/- (7,000x12).

13. While calculating the compensation for continuing permanent disability, the Tribunal has not added future prospects to the notional income. Claimant was aged 24 years at the time of accident. Therefore, 40% of his income is to be added towards future prospects (National Insurance Company Limited v. Pranay Sethi and others [(2017) 16 SCC 680]). If 40% is thus added to the notional income of Rs.7,000/- fixed by this Court, the amount would come to ₹9,800/- (7,000+2,800). Medical Board has assessed the permanent disability as 80%. As the victim was aged 24 at the time of accident, the multiplier applicable to him is 18. Accordingly, an amount of ₹16,93,440/- (9,800x12x18x80/100) is awarded under the head compensation for permanent disability as against Rs.7,77,600/- awarded by the Tribunal.

14. Now let us see whether the amount awarded by the



Tribunal for prosthetic leg needs any enhancement.

15. A prosthetic limb is not a one-time expense. It requires periodic replacement, maintenance, physiotherapy and adaptation over the claimant's lifetime. Therefore, the Courts/Tribunals must adopt a humane and realistic approach while assessing compensation. Merely awarding the present cost of an artificial limb would be wholly inadequate. A young person will require several replacements in the course of his life, particularly because prosthetic technology advances and wear and tear make periodic renewal inevitable. Compensation must accordingly include future medical expenses, recurring replacement costs, rehabilitation expenses and loss of amenities of life.

16. In the case of a young unmarried man, amputation may adversely affect not only career prospects but also his social and matrimonial opportunities, causing permanent mental agony and loss of self-esteem. The assessment must therefore take into account pain and suffering, loss of expectation and enjoyment of life, emotional trauma and the reduced capacity to lead a normal life.

17. A modern prosthetic limb capable of restoring reasonable mobility is often expensive and advanced models may need



replacement every few years. Denial of adequate compensation would compel the claimant to live with inferior mobility and diminished dignity. The object of compensation is, as far as money can, to restore the injured person to a position approximating the one he would have occupied but for the accident. Hence, while determining compensation in such cases, the Tribunal should ensure that the award is realistic, future-oriented and sufficiently substantial to secure the claimant a functional prosthetic limb throughout his life with dignity and independence.

18. In *Prahlad Sahai v. Haryana Roadways* [2026 (3) KHC 370] the Hon'ble Apex Court followed its earlier decision in *Mohd. Sabeer @ Shabir Hussain v. Regional Manager, U.P. State Road Transport Corporation* [2022 KHC OnLine 7267] and awarded a consolidated amount towards the cost of prosthetic leg. The Apex Court granted Rs.3,00,000/- per limb on a standard basis for 7 prosthetic limbs.

19. Since there was amputation of his right leg above knee, the claimant requires an artificial limb for his normal functioning as rightly contended by him. The Tribunal has awarded only a sum of ₹3,47,900/- for the artificial leg by placing reliance on Ext.A6 document.



20. According to the claimant, at the time of trial before the Tribunal, he was unable to produce proper and updated estimate for an advanced prosthetic limb, as the necessity for a functional and durable prosthesis arose more acutely over time with the progression of disability and practical difficulties faced in daily life. According to the learned counsel for the claimant, the claimant requires a prosthetic limb for basic mobility, dignity and rehabilitation and without adequate compensation or replacement of the prosthetic limb, he would not be able to purchase and maintain the required prosthetic limb. The claimant filed I.A.No.1/2026 to receive a document, namely quotation for Endolite above knee prosthesis with suction socket, KX06 knee, Echelon foot and fabrication charge issued by 'Endolite India Ltd'.

21. The learned counsel for the respondent insurance company vehemently opposed I.A.No.1/2026 on the ground that the document is only an estimate.

22. It is true that the additional document produced along with the interlocutory application is a quotation for a prosthetic limb for an amount of ₹16,23,615/-, including GST. But to meet the ends of justice I.A.No.1/2026 filed by the claimant to receive the



additional document in evidence stands allowed and the document is marked as Annexure A1.

23. In Prahlad Sahai (supra) the Hon'ble Apex Court held that the compensation awarded to a motor accident victim must include the cost of prosthetic limb and its maintenance emphasizing that such devices are essential to restore mobility, confidence and dignity to the amputees. The Apex Court further observed that a prosthetic limb is an integral part to the life of a person who has lost a limb. The Hon'ble Supreme Court underscored that the compensation must aim to place the injured person, as far as possible in the position they would have occupied prior to the accident.

24. Highlighting the principle of *restitutio in integrum* the Court stated that damages should enable the victim to procure necessary aids and equipment required due to the injury.

25. The Hon'ble Apex Court recognized that prosthetic limbs are not permanent devices and typically require replacement at periodic intervals. It accepted that artificial limb generally needs replacement once every five years and that maintenance cost must also be factored into compensation.



26. Applying an assumed life expectancy of 70 years and a five year replacement cycle, the Apex Court calculated that the claimant therein, who was 32 years old at the time of accident would require 7 prosthetic limbs during his life time and the court awarded Rs.3 lakhs per prosthetic limb and Rs.5 lakhs towards maintenance expenses. The Court rejected the insurer's reliance on Government notified rates that suggested much lower prices for prosthetic devices holding that compensation must reflect the claimant's reasonable requirements rather than the cheapest available option. The Apex Court also clarified that a claimant is entitled to require a prosthetic limb from an appropriate private provider if that choice is reasonable in the light of the medical and functional needs. The Apex Court followed its judgment in Mohd. Sabeer @ Shabir Hussain (supra) in which the cost of prosthetic limb was taken as Rs.3 lakhs. Reference in this regard is made to paragraphs 31 to 33 of the judgment of the Hon'ble Supreme Court in Prahlad Sahai (supra), which read as follows:

"31. The appellant was thirty - two years in 2007. Applying an assumed life span of seventy years as the maximum for which as a standard formula compensation for prosthetic limb is awarded and calculating the life of one prosthetic limb as five years, the appellant will need seven prosthetic limbs. Insofar as the price is concerned, the appellant has claimed the 2007 price for the first block with interest @ 9 per cent. Though he has claimed for eight limbs the correct proportion to award would be seven limbs, since the amputation happened on 17/07/2009.



32. We are inclined to award, like in **Md. Shabir (supra)**, a consolidated amount towards the price. We are inclined to grant Rs.3,00,000/- per limb on a standard basis for seven limbs. In view of the fact that a consolidated amount is being paid, no interest from the date of the accident is awarded. Considering that the price has been arrived at by broadly applying the case **Md. Shabir (supra)**, which we find reasonable, we are not inclined to proceed on the basis of the notification relied upon by the Insurance Company.

33. We are also inclined to award cost of maintenance of prosthetic limb at Rs.15,000/- annually. For a block of five years, it would work out to approximately Rs.75,000/-. We award a consolidated sum of Rs.5,00,000/- till the assumed life span of seventy years."

27. Following the same parameters and applying an assumed life expectancy of 70 years and a five year replacement cycle this Court find that the claimant, who was aged 24 years at the time of accident would require 8 prosthetic limbs during his life time. Accordingly, this Court is inclined to award an amount of Rs.3,00,000/- each for 8 prosthetic limbs. Thus an amount of Rs.24,00,000/- (3,00,000x8) is awarded under the head artificial leg. The claimant is also awarded a sum of ₹6,00,000/- towards its periodical maintenance expense.

28. The compensation awarded by the Tribunal under all other heads found to be just and reasonable and therefore needs no interference.

29. In the result, appeal stands allowed. The compensation payable to the appellant/claimant is as indicated in the tabular



statement here below:

Sl. No.	Head of Claim	Amount awarded by the Tribunal	Total amount after enhancement in appeal
1	Loss of income	1,08,000/-	84,000/-
2	Pain and suffering	3,00,000/-	3,00,000/-
3	Loss of amenities	1,50,000/-	1,50,000/-
4	Damage to clothing	500/-	500/-
5	Bystander's expense	3,800/-	3,800/-
6	Medical bills/transportation	1,17,100/-	1,17,100/-
7	Extra nourishment	50,000/-	50,000/-
8	Artificial leg	3,47,900/-	24,00,000/-
9	Cost of maintenance of artificial leg	----	6,00,000/-
10	Disability compensation	7,77,600/-	16,93,440/-
11	Future medical expense	1,00,000/-	1,00,000/-
	Total	19,54,900	54,98,840/-
	Amount enhanced ₹35,43,940/- (54,98,840-19,54,360)		

30. Since a consolidated amount of Rs.30,00,000/- (24,00,000+6,00,000) is being paid for the prosthetic limb and its periodical maintenance, the enhanced amount of Rs.26,52,100/- (30,00,000-3,47,900) awarded under the head cost for prosthetic leg and its maintenance will not carry interest. The insurance



company shall deposit the said amount within two months from the date of receipt of a copy of this judgment, failing which the interest shall run at 8% per annum. Amount enhanced under other heads shall carry interest at 8% per annum from the date of petition and it shall be deposited within two months from the date of receipt of a copy of this judgment.

31. Since there was a delay of 319 days in filing the appeal, the claimant is not entitled to interest on the enhanced amount for the period of 319 days.

The claimant/appellant shall produce the details of the bank account before the Motor Accidents Claims Tribunal, Thalassery within one month from the date of receipt of a certified copy of this judgment.

Sd/-
M.B.SNEHALATHA,
JUDGE

ab/Mms



APPENDIX OF MACA NO. 949 OF 2015

PETITIONER'S ANNEXURES

Annexure A1

**THE ORIGINAL ESTIMATE OF KNEE PROSTHESIS
ISSUED FROM ENDOLITE INDIA LTD, MANGALORE
DATED 15-12-2025**