

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE HARUN-UL-RASHID

FRIDAY, THE 10TH DAY OF AUGUST 2012/19TH SRAVANA 1934

MACA.No. 611 of 2004 (A)

OPMV.609/1996 of MACT, IRINJALAKUDA

APPELLANT/PETITIONER:

RAGHAVAN S/O. KANNAPPAN, **(DIED)***
EDATHADAM HOUSE, POOLANI DESOM, MICHU VILLAGE
MUKUNDAPURAM TALUK.

*ADDL.A2 SIJI.E.R, D/O. LATE RAGHAVAN,
AGED 32 YEARS, EDATHADAN HOUSE,
POOLANI DESOM, MICHU VILLAGE
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

*ADDL.A3: SOMA.T.A., W/O.LATE RAGHAVAN,
AGED 64 YRS, EDATHADAN HOUSE,
POOLANI DESOM, MICHU VILLAGE
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

*LRs OF DECEASED SOLE APPELLANT ARE IMPEADED AS ADDITIONAL
APPELLANTS 2 & 3 AS PER ORDER DTD. 16.7.2012 IN I.A.NO.2184/2011 IN
M.A.C.A.NO.611/2004.

BY ADV. SRI.V.A.PRADEEP KUMAR

RESPONDENTS/RESPONDENTS:

1. C.M.RAVIKUMAR S/O. MOHANAN NAIR
CHERIPARAMBIL HOUSE, ANNANAD P.O.
VADAKKUMMURY VILLAGE, MUKUNDAPURAM TALUK
2. THE ORIENTAL INSURANCE CO.LTD.,
BRANCH CHALAKUDY.

BY ADV. DR.ELIZABETH VARKEY FOR R2

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 10-08-2012, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

P.B. SURESH KUMAR, J.

M.A.C.A. No.611 of 2004

Dated this the 5th day of February 2015

J U D G M E N T

The claimant in a petition for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the quantum of compensation granted to him.

2. The claimant was working as a security staff in a hospital. The accident took place on 19.12.1995. It is pointed out that the claimant was aged 55 years at the time of accident. He claimed a sum of ₹50,000/- by way of compensation in the proceedings. The Tribunal, on an evaluation of the materials on record, found that the claimant is entitled to only a sum of ₹13,000/- and accordingly an award for the said amount was passed. Since the vehicle involved in the accident was covered by a valid insurance policy, the insurer of the vehicle was directed to satisfy the award.

3. Heard the learned counsel for the claimant and the learned counsel for the insurer.

4. The Tribunal found that the claimant had suffered a cervical spine injury and he was under treatment as inpatient in the hospital for a period of 26 days. Ext.A7 is the

disability certificate issued to the claimant by the Assistant Professor of Orthopaedics attached to the Medical College Hospital, Thrissur. In Ext.A7, the disability of the claimant was assessed by the doctor at 15%.

5. The Tribunal had granted a sum of Rs.3,600/- to the claimant towards loss of earnings for a period of three months reckoning his monthly income at Rs.1,200/-. No compensation was, however, granted for continuing disability based on Ext.A7 disability certificate. True, Ext.A7 is not a disability certificate issued by the Medical Board, but the fact remains that the claimant had sustained disability in the accident. On an evaluation of the materials on record, I am of the view that the claimant shall be paid compensation for continuing disability reckoning his income at Rs.1,200/- and the disability at 7.5%, applying the multiplier '11'. The claimant will, therefore, be entitled to a sum of Rs.11,880/- by way of compensation for continuing disability. Though medical bills worth Rs.2,412/- were produced before the Tribunal, no compensation is seen granted on that head. The claimant is therefore granted a sum of Rs.2,500/- towards medical expenses. Though the claimant had undergone treatment as

inpatient in the hospital for 26 days, no compensation is seen granted towards bystander's expenses. The claimant is therefore, entitled to a sum of Rs.2,600/- towards bystander's expenses as well. Towards extra nourishment, no compensation is seen granted by the Tribunal. Having regard to the injuries sustained by the claimant, a sum of Rs.1,000/- is granted towards extra nourishment also. As noticed above, the claimant had sustained a spine injury. He was in the hospital for 26 days. The Tribunal had granted only a sum of Rs.5,000/- towards pain and sufferings. In the nature of injuries sustained by the claimant, I am of the view that the claimant is entitled to a further sum of Rs.5,000/- towards pain and sufferings. Thus, the claimant is entitled to a further sum of Rs.22,980/- by way of compensation.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.22,980/- to the claimant by way of compensation. Needless to say, the claimant will be entitled to interest also for the enhanced compensation at the same rate at which the interest was awarded by the Tribunal for the compensation granted, except for the period of delay in filing

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the appeal, viz., 177 days as ordered in C.M.Application No.888
of 2004.

Sd/-
P.B. SURESH KUMAR,
JUDGE

/ True Copy /

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P.A. To Judge