IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

MACA.No. 120 of 2012 ()

AGAINST THE AWARD IN OPMV 1814/2010 of M.A.C.T.,KOZHIKODE
DATED 27-08-2011

APPELLANT(S)/APPELLANT/PETITIONER:

SURENDRAN,
S/O. CHERUKANDAN, RESIDING AT POYILIL HOUSE
NELLIPOYIL AMSOM DESOM, MEENMURY P.O., KOZHIKODE.

BY ADVS.SRI.AVM.SALAHUDIN
SMT.P.Y.SHEHEERA

RESPONDENT(S)/RESPONDENTS:

----

1. MOHANAN V.D, AGED 44 YEARS
S/O. DAMODARAN, AT VADAKKEN HOUSE, PONNAMKAYAM P.O.
THIRUVAMBADY, KOZHIKDE-673 603.

2. THE BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD.
TECHNICAL MANAGER, 3RD FLOOR, FINANCE TOWERS
KALOOR, ERNAKULAM-682 017.

R2 BY ADV. SRI.THOMAS M.JACOB
R2 BY ADV. SRI.AKHIL K.MADHAV
R2 BY ADV. SRI.T.R.JERRY SEBASTIAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 03-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A.No.120 of 2012

--

Dated this the 3rd day of September, 2015

<u>JUDGMENT</u>

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

2. The claimant is a coolie. The accident took place on 10.8.2010**.** The claimant was aged 44 years at the time of accident. A sum of Rs.1,00,000**/-** was claimed in the petition by way of compensation. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a consolidated sum of Rs.5,000**/-** towards compensation and accordingly, an award was passed for the

said amount. As the vehicle involved in the accident was covered by a valid insurance policy, the insurer of the vehicle was directed to satisfy the award. The claimant is aggrieved by the said decision of the Tribunal.

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

4. Ext.A2 is the wound certificate issued to the claimant from Santhi Hospital, Kozhikode. Ext.A2 indicates that the claimant sustained various injuries including a lacerated injury over the right knee and injuries to the quadriceps muscle. The discharge card issued to the claimant from the hospital referred to above has been produced before this Court as an additional document. The discharge card issued to the claimant indicates that he was admitted and treated as inpatient in the hospital for ten days from 10.8.2010 to 20.8.2010. It is also seen from the

discharge card that plaster of paris was applied on his leg and the same was removed only on 27.8.2010. The compensation payable to the claimant is to be assessed on the basis of the aforesaid materials.

5. It is beyond dispute that the claimant had undergone inpatient treatment in the hospital for ten days. The plaster of paris applied on his leg as part of the treatment was removed only on the 17th day. In the circumstance, it is reasonable to presume that the claimant who is a coolie could not have worked at least for a period of two months. He is, therefore, entitled to compensation for loss of earnings for a period of two months. Since the accident took place in the year 2010, the monthly income of the claimant should have been reckoned by the Tribunal at Rs.5,000/-. The claimant is, therefore, entitled to a sum of Rs.10,000/- towards loss of earnings. It is settled that the

claimant in a proceedings of this nature is entitled to compensation for pain and sufferings. Having regard to the injuries sustained by the claimant, I deem it appropriate to grant to the claimant a sum of Rs.15,000/- towards compensation for pain and sufferings. The claimant being a coolie, the muscle injury sustained by him on his leg would certainly affect his earning capacity. However, in the absence of any disability certificate, I do not propose to grant any compensation for loss of earning capacity. But, I deem it appropriate to grant him some amount towards compensation for loss of amenities and enjoyments in life. On an evaluation of the materials on record, I fix the compensation payable to the claimant towards loss of amenities and enjoyments in life at Rs.7,500/-. The claimant is also entitled to compensation towards transportation and also towards damage to clothing and articles, which I fix at

Rs.500/- each. The claimant is also entitled to compensation towards extra nourishment, which I fix at Rs.2,000/-. As the claimant had undergone inpatient treatment for ten days, he is entitled to compensation towards bystander's expenses for the said period at Rs.250/- per day. The claimant is, therefore, entitled to a sum of Rs.2,500/- on that head. Thus, the compensation due to the claimant comes to Rs.38,000/- Since the claimant has been granted a sum of Rs.5,000/- by way of compensation, he is granted a further sum of Rs.33,000/-.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7% per annum. It is now settled that the claimant in a proceedings of this nature is entitled to interest for the compensation awarded at the rate of 9% per annum.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.33,000/- to the claimant by way of compensation. Needless to say, the claimant will be entitled to interest for the whole amount of compensation at the rate of 9% per annum.

P.B.SURESH KUMAR, JUDGE.

smm