

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

MACA.No. 132 of 2012

OP(MV) 1009/2008 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, MANJERI.
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APPELLANT/PETITIONER:

**K.MUHAMMED MUSTHAF,
S/O. MONUDHEEN, KODAKKADAN VILLA,
MUSLIYARANGADI, NEIDYIRUPPU.P.O.,
VIA. KONDOTTY, MALAPPURAM DISTRICT.**

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENT/3RD RESPONDENT:

**UNITED INDIA INSURANCE CO.LTD.,
ARAFU BUILDING, COURT ROAD, MANJERI,
MALAPPURAM DISTRICT-676121.**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 30-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

P.B.SURESH KUMAR, J.

M.A.C.A.No.132 of 2012

Dated this the 30th day of July, 2015

JUDGMENT

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 by the Tribunal.

2. The claimant is a driver. The accident took place on 1.3.2008. The claimant was aged 38 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 sum of Rs.40,651/- 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 award.

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

4. The claimant sustained comminuted fracture of right tibia plate. He was treated as inpatient in the hospital for 5 days. Ext.A2 is the wound certificate. Ext.A3 is the discharge card issued to the claimant from the hospital where he was admitted and treated for the injuries sustained by him in the accident. The Tribunal found that the claimant had to attend the hospital for 10 reviews also after the discharge. The claimant has given evidence in the claim petition as PW1. In his evidence as PW1, he had stated that his right knee joint was shattered in the accident. He also deposed that he was under treatment for the said injury for about 1½ years. In his deposition, he had

further stated that he had to remain himself at his house for six months and could walk only using crutches on account of the said injuries. He had further stated that he is unable to work as a driver after the accident.

5. The Tribunal granted only a sum of Rs.24,000/- to the claimant towards loss of earnings for a period of 6 months. Ext.A7 is the salary certificate produced by the claimant. Ext.A7 was issued to the claimant by his employer namely Malabar Transport Corporation. In Ext.A7, it is stated that the claimant was being disbursed monthly wages at the rate of Rs.7,000/-. Since the accident took place in the year 2008, I deem it appropriate to accept Ext.A7 certificate for the purpose of determining the compensation payable to him towards loss of earnings. As noticed above, the Tribunal had granted loss of earnings to the claimant for a period of 6 months. According to me, the monthly income of the claimant should have been reckoned

by the Tribunal at Rs.7,000/-. The claimant is, therefore, entitled to a further sum of Rs.18,000/- on that head. Though the claimant had undergone inpatient treatment in the hospital for 5 days, the Tribunal granted only a sum of Rs.500/- towards bystanders' expenses. Since the accident took place in the year 2008, I am of the view that the claimant is entitled to a further sum of Rs.1000/- towards bystanders' expenses. Towards transport to hospital, despite the fact that the claimant had to attend the hospital for 10 reviews as well after the discharge, the Tribunal granted only a sum of Rs.1,250/- towards compensation on that head. It is seen that the claimant is residing at Kondotty and he was treated at Al Shifa Hospital, Perinthalmanna. Having regard to the distance between these two places, the Tribunal should have granted at least a sum of Rs.5,000/- to the claimant towards transportation expenses. The claimant is therefore granted a further sum of Rs.3,750/- on

that head. Despite the aforesaid evidence, the Tribunal granted only a sum of Rs.7,500/- to the claimant towards pain and sufferings. According to me, the compensation granted to the claimant towards pain and sufferings is unreasonably low. Therefore, the claimant is granted a further sum of Rs.12,500/- on that head. The claimant is neither granted compensation for continuing permanent disability nor granted any compensation for loss of amenities and enjoyments in life. In the circumstances, in the absence of any disability certificate, I deem it appropriate to grant to the claimant a sum of Rs.10,000/- towards loss of amenities and enjoyments in life also. Thus, the claimant is entitled to a further sum of Rs.45,250/- towards compensation.

6. In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.45,250/- 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.

P.B.SURESH KUMAR, JUDGE.

smm