

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

MACA.No. 149 of 2012 ()

AGAINST THE AWARD IN OPMV 392/2008 of M.A.C.T.,
MANJERI, DATED 16-09-2011

APPELLANT/APPLICANT:-

P.A.MEHABOOB
S/O. ABOOBACKER, PALLIPPARA HOUSE,
MARATHANI
THRIKKALANGODE POST, MANJERI VIA,
MALAPPURAM DISTRICT.

BY ADVS.SRI.T.K.AJITH KUMAR
SRI.P.VINODKUMAR
SRI.K.S.ARUNDAS

RESPONDENTS/RESPONDENTS:-

1. MOHAMMED SHEFEEQ
S/O. ABDUL JABBAR, KORMATH (H) MULLAMPARA
MANJERI P.O. MALAPPURAM DISTRICT PIN 676121 (DRIVER)

2. ABOOBACKER HAJI,
S/O. UMMER HAJI, SASHITHA HOUSE
EDAVANNA P.O. MALAPPURAM DISTRICT PIN 676541 (OWNER)

3. THE UNITED INDIA INSURANCE CO.LTD
MANJERI P.O. MALAPPURAM DISTRICT PIN 676121 (INSURER)

R3 BY JOHN JOSEPH VETTIKKAD.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A. No.149 of 2012.

Dated this the 10th day of February, 2015.

J U D G M E N T

The claimant in an original 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 Sidha Practitioner. The accident took place on 24.9.2006. The claimant was aged 40 years at the time of accident. A sum of Rs.1,00,000/- was claimed in the original petition by way of compensation for the injuries sustained by the claimant. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.23,562/- by way of compensation. However, the award was passed only for a sum of Rs.11,781/- holding that the claimant has also contributed for the accident to the extent of 50%. As the vehicle involved in the accident was covered by a valid insurance policy at the time of accident, the insurer 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. Ext.A2 is the wound certificate of the claimant. Ext.A4 is the discharge report issued to the claimant from the hospital. The Tribunal noticed from the said documents that the claimant sustained a crush injury on the second toe of the right foot with grade III compound fracture of P1 and P2, contusion with crush injury on the left ankle joint, abrasions over both elbows and knee joints, etc. The Tribunal also noticed that the claimant was treated by partial amputation and primary wound closure of the affected toe. The Tribunal further noticed that the claimant was treated as inpatient in a hospital for six days.

5. A sum of Rs.9,000/- was granted by the Tribunal to the claimant by way of compensation towards loss of earnings for a period of three months, reckoning his monthly income at Rs.3,000/-. As noticed above, the accident took place in the year 2006. In the nature of the injuries sustained by the claimant, according to me, he is entitled to

compensation for loss of earnings for a period of three months reckoning his monthly income at Rs.5,000/-. If the compensation for loss of earnings is computed for a period of three months, reckoning the monthly income at Rs.5,000/-, the claimant is entitled to a further sum of Rs.6,000/- towards compensation on that head. A sum of Rs.7,500/- was granted by the Tribunal as compensation towards pain and sufferings. In the nature of injuries sustained by the claimant and the treatment undergone by him, I am of the view that the claimant is entitled to a further sum of Rs.7,500/- towards compensation for pain and sufferings. Towards loss of amenities and enjoyments in life, the Tribunal has not granted any amount as compensation. Likewise, no compensation is seen granted for continuing the disability also. In the said circumstance, I am of the view that the claimant has to be granted a sum of Rs.12,500/- towards compensation for loss of amenities and enjoyments in life. Towards extra-nourishment, no compensation is seen granted by the Tribunal. According to me, the claimant is entitled to a sum of Rs.2,000/- towards compensation for extra-nourishment. Though the claimant was

treated as inpatient in a hospital for six days, only a sum of Rs.600/- was granted towards bystanders expenses. The claimant is entitled to a further sum of Rs.900/- towards bystanders expenses also. Thus, the claimant is entitled to a further sum of Rs.29,900/- towards compensation. Since, contributory negligence was found against the claimant to the extent of 50%, the claimant will be entitled to a further sum of Rs.14,950/- 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.14,950/- 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.

Sd/- P.B.SURESH KUMAR, JUDGE.

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PA TO JUDGE.