

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

MACA.No. 572 of 2012

**AWARD DATED 31-01-2011 IN OPMV 1217/2010 OF MOTOR ACCIDENT CLAIMS
TRIBUNAL, KOZHIKODE**
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APPELLANT(S)/PETITIONER:

**K.SUDHEESH, AGED 33 YEARS,
S/O. SOMAN, AT CHEVANGOTTUKUNNUMMAL HOUSE,
THAZHE PARAYANCHERY, P.O.KOTTOOLI,KOZHIKODE DISTRICT.**

**BY ADVS.SRI.V.S.CHANDRASEKHARAN
SMT.LEKSHMI SWAMINATHAN**

RESPONDENT(S):

- 1. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD COURTERS, THIRUVANANTHAPURAM.**
- 2. SRI. RAMADAS, AGED 41 YEARS,
S/O. M. CHANDRASEKHARAN, RESIDING AT 2/28, DHARSALAM,
POPULLY, PALAKKAD - 678 001.**
- 3. THE KERALA STATE INSURANCE DEPARTMENT,
DISTRICT INSURANCE OFFICE, KANNUR - 670 001.**

**R1 & R3 BY GOVERNMENT PLEADER SRI.JOBY JOSEPH
R2 BY ADV. SRI.N.SHANOJ**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN
FINALLY HEARD ON 18-08-2015, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:**

msv/

MACA.No. 572 of 2012

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEXURE A1: DUPLICATE DISCHARGE CARD.

ANNEXURE A2: ORIGINAL DISCHARGE CARD.

ANNEXURE A3 SERIES: MEDICAL BILLS.

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.B.SURESH KUMAR, J.

M.A.C.A.No.572 of 2012

Dated this the 18th day of August, 2015

JUDGMENT

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

2. The claimant is a cook. The accident took place on 8.4.2010. The claimant was aged 33 years at the time of accident. A sum of Rs.1,00,000/- was claimed in the petition by way of compensation in the proceedings. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.44,306/- and accordingly, an award was passed directing the insurer of the vehicle to pay the said amount to the claimant. The

claimant is aggrieved by the said decision of the Tribunal and hence this appeal. .

3. Heard the learned counsel for the appellant as also the learned counsel for the respondents.

4. Ext.A2 is the wound certificate issued to the claimant from the Medical College Hospital, Calicut. Ext.A2 wound certificate indicates that the claimant sustained fracture of both bones of his right leg. Ext.A4 series are the medical bills produced by the claimant before the Tribunal. Ext.A4 series indicate medical expenditure to the tune of Rs.6,325/-. In this appeal, the claimant produced a few additional documents. The additional documents produced by the claimant includes two reference cards issued from the Medical College Hospital, Calicut. One of the reference card produced by the claimant indicates that the claimant was admitted and treated in the Medical College Hospital in connection with the injuries sustained by him in the accident from 8.4.2010 to 17.5.2010. The said reference card also

indicates that during the course of treatment at the Medical College, the claimant had undergone a surgical procedure. The second reference card produced by the claimant indicates that he was admitted for treatment again in the Medical College Hospital, Calicut on 15.11.2010 and discharged on 30.1.2011. The said reference card indicates the non-union of the bones of his right leg after fracture. The additional documents produced by the claimant includes the originals of various medical bills also.

5. Since the claimant had sustained serious injuries in the accident as indicated above, and since it is established that he did not get an effective opportunity to adduce evidence, I deem it appropriate to remit this matter to the Tribunal to enable him to adduce further evidence in the matter.

In the result, the appeal is allowed, the impugned award is set aside and O.P(M.V)No.1217 of 2010 is remitted to the Motor Accidents Claims Tribunal, Kozhikode for fresh

disposal. Since the original petition for compensation was one filed in the year 2010, I deem it appropriate to direct the Motor Accidents Claims Tribunal to dispose of the claim petition afresh, within a period of four months from the date of receipt of a copy of this judgment.

P.B.SURESH KUMAR, JUDGE.

smm