

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 16TH DAY OF FEBRUARY 2015/27TH MAGHA, 1936

MACA.No. 616 of 2012

AGAINST THE AWARD IN OPMV 445/2007 of M.A.C.T., ERNAKULAM,
DATED 27-10-2011

APPELLANT/PETITIONER:-

SAINUDHEEN
AGED 42, S/O.MUHAMMED KUTTY, KARIAMKODE HOUSE
XX/696, PALLURUTHY VILLAGE, KOCHI - 6.

BY ADVS.SRI.ABRAHAM K.JOHN
DR.K.P.SATHEESAN

RESPONDENTS/RESPONDENTS:-

1. PRASANTH
AGED 26, S/O.SARAGADHARAN, MULANPARAMBU HOUSE
KONAM, PALLURUTHY, KOCHI - 6
PIN - 682006.

2. M/S.CONTRATE CARGO SERVICES (P) LTD
REPRESENTED BY ITS MANAGING DIRECTOR, 24/1572
SUBRAMANIAM ROAD, W.ISLAND, KOCHI - 3
PIN - 682003.

3. UNITED INDIA INSURANCE COMPANY LTD
JOY'S BUILDING, NEAR PADMA JUNCTION, M.G.ROAD
KOCHI - 35, PIN - 682035.

R3 BY SRI.JOHN JOSEPH VETTIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 16-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A.No.616 of 2012

Dated this the 16th 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 by the Tribunal.

2. The claimant is a head load worker. The accident took place on 2.12.2006. The claimant was aged 39 years at the time of accident. A sum of Rs.79,000/- 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.26,041/- and accordingly, an award was passed for the said amount. 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.A3 is the wound certificate of the claimant. The injuries noted in Ext.A3 wound certificate, as recorded by the

Tribunal in the award are, fracture of 3rd rib, abrasion back of left wrist, medially contusion on the left forehead, pain on right shoulder, thoracic spine, scapula right etc. Tribunal noticed that the claimant had undergone inpatient treatment at Gautam Hospital for three days.

5. A sum of Rs.7,000/- was granted by the Tribunal to the claimant by way of compensation towards loss of earnings for a period of two months, reckoning his monthly income at Rs.3,500/-. As noticed above, the accident took place in the year 2006. Since the claimant is a headload worker, in the nature of the injuries sustained by him, according to me, he is entitled to compensation for loss of earnings for a period of three months reckoning his monthly income at Rs.4,500/-. The claimant is therefore, entitled to a further sum of Rs.6,500/- towards compensation on that head. A sum of Rs.10,000/- was granted by the Tribunal as compensation towards pain and sufferings. In the nature of the 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.10,000/- towards compensation for pain and sufferings. Towards loss of amenities and enjoyments in life, the Tribunal has granted only

a sum of Rs.5,000/- as compensation. On an evaluation of the nature of the injuries sustained by the claimant, the claimant has to be granted a further sum of Rs.10,000/- towards loss of amenities and enjoyments in life. Towards extra-nourishment, it is seen that the Tribunal has not granted any amount. According to me, the claimant is entitled to a sum of Rs.2,000/- towards compensation for extra-nourishment also. Thus, the claimant is entitled to a further sum of Rs.28,500/- 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.28,500/- 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.**

Kvs/-

// true copy //

PA TO JUDGE.

M.A.C.A.No.616/2012.