

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

MACA.No. 921 of 2012

**AGAINST THE AWARD IN OP(MV) 514/2008 of MOTOR ACCIDENTS CLAIMS TRIBUNAL
OTTAPPALAM, DATED 09-12-2011**

APPELLANT(S)/APPELLANT:

**SANTHOSHKUMAR
S/O.SANKUNNY, 'SRUTHY', CHEENATH HOUSE
KUNNAKKATTUKARA DESOM, ERAVIMANGALAM
MARATHAKKARA VILLAGE, THRISSUR DISTRICT.**

BY ADV. SRI.SHEJI P.ABRAHAM

RESPONDENT(S)/RESPONDENTS:

- 1. RIJO DAVIES,
S/O.DEVASSY, 15/560(31/955), KANJIRATHINGAL HOUSE
POPE JOHN NAGAR, CHIYYARAM
THRISSUR. PIN-680 320. (OWNER CUM DRIVER OF
KL-8 M 2766 MOTOR CYCLE).**
- 2. NATIONAL INSURANCE CO. LTD.
BRANCH OFFICE, AMBIKA ARCADE, M.G.ROAD
THRISSUR. PIN-680 603. POLICY NO.570704/31/07/6200006874 VALID
FROM 23.01.2008 TO 22.01.2009.**

R2 BY ADV. SMT.RAJI T.BHASKAR

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 23-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

P.B.SURESHKUMAR, J.

M.A.C.A.No.921 OF 2012

Dated this the 23rd day of February, 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 clerk in a private firm. The accident took place on 12.3.2008. The claimant was aged 37 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.56,850/- 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. The claimant sustained various injuries including fracture of lower end of radius in the accident. Ext.A2 is the wound certificate and Ext.A6 is the discharge certificate. He was admitted and treated as inpatient at Aswini Hospital, Thrissur for five days for the injuries sustained by him in the accident. Ext.A9 is the disability certificate issued to the claimant by the Orthopaedic Surgeon attached to the Medical College Hospital, Thrissur, certifying the physical disability of the claimant at 6%.

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 2008. 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/-. The claimant is therefore entitled to a further sum of Rs.6,000/- towards compensation on that head. Towards loss of amenities and conveniences, 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, I am of the view

that the claimant has to be granted a further sum of Rs.5,000/- towards loss of amenities and conveniences. No compensation has been granted by the Tribunal for continuing permanent disability. Considering the nature of the injuries sustained by the claimant and in view of Ext.A9 disability certificate, I am of the view that a consolidated amount of Rs.10,000/- can be awarded to the claimant by way of compensation towards continuing or permanent disability. A sum of Rs.12,000/- 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.3,000/- towards compensation for pain and sufferings. Thus, the claimant is entitled to a further sum of Rs.24,000/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 8% 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.24,000/- 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.SURESHKUMAR, JUDGE

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