

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

MACA.No. 1101 of 2012 ()

OPMV 215/2009 of ADDL.M.A.C.T., ERNAKULAM.

APPELLANT/PETITIONER :

VEERAN P.M. AGED 39 YEARS
S/O.MOOKKAN, PUTHENPURAYIL HOUSE, THIRUVAMKULAM P.O.
THIRUVAMKULAM VILLAGE, KANAYANNOOR TALUK
ERNAKULAM DISTRICT.

BY ADVS.SRI.MATHEWS K.PHILIP
SMT.T.MANASY

RESPONDENT(S)/RESPONDENTS :

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1. PIOUS SYRIAC
VILANGATTIN HOUSE, HILL PALACE ROAD
THIRUVAMKULAM P.O., THRIPPUNITHURA-682 305.
 2. TESSY
VILANGATTIN HOUSE, THIRUVAMKULAM P.O.
HILL PALACE ROAD, THRIPPUNITHURA-682 305.
 3. UNITED INDIA INSURANCE COMPANY LIMITED
IIND FLOOR, MNAIKKANAMPARAMBIL BUILDING, LAYAM ROAD
THRIPPUNITHURA, ERNAKULAM DISTRICT, PIN-682 301.

R3 BY ADV. SMT.S.JAYASREE
R2 BY ADV. SRI.T.K.VENUGOPALAN
R2 BY ADV. SRI.V.V.VARGHESE
R3 BY SRI.JOHN JOSEPH VETTIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.1101 of 2012

Dated 11th 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 coolie. The accident took place on 24.12.2008. The claimant was aged 37 years at the time of accident. A sum of Rs.50,000/- 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.3,650/- by way of compensation 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.A2 is the wound certificate of the claimant. In Ext.A2, it is recorded that the claimant sustained multiple abrasions and lacerations. The Tribunal noticed that he was admitted and treated in R.C.M.Hospital, Tripunithura for three days from 24.12.2008 to 26.12.2008.

5. A sum of Rs.1000/- was granted by the Tribunal to the claimant by way of compensation towards loss of earnings. As noticed above, the accident took place in the year 2008. True, the injuries sustained by the claimant are not serious injuries. But, the fact remains that he was hospitalized for three days. Persons like the claimant, who are doing petty physical jobs may not be able to carry on with their work immediately after they are discharged from the hospital. In the circumstances, the Tribunal should have had a practical approach and should have granted compensation for loss of earnings at least for a period of one month. The further compensation payable to the claimant for loss of earnings is therefore, fixed at Rs.4,000/-, reckoning his monthly earnings at Rs.5,000/-. It is beyond dispute that the claimant was admitted

and treated in a private hospital for three days. The tribunal had not granted any compensation towards treatment expenses for the reason that the claimant had not produced evidence of expenditure. Even in the absence of any evidence, on the admitted facts, according to me, the claimant is entitled to be given a reasonable amount by way of compensation towards treatment expenses, which I fix at Rs.2,000/-. It is seen that the Tribunal had not granted any compensation towards extra nourishment. In the nature of injuries sustained and the treatment undergone by the claimant, I am of the view that he is entitled to a reasonable amount by way of compensation for extra nourishment also, which I fix at Rs.1,500/-. A sum of Rs.1,000/- 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.4,000/- towards compensation for pain and sufferings. Towards loss of amenities and enjoyments in life, the Tribunal has granted only a sum of Rs.500/- 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.2,500/- towards loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.14,000/- 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.14,000/- 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, except for the period of delay in filing the appeal, viz., 181 days as ordered in C.M.Application No.1345 of 2012.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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(true copy)