

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. 1152 of 2012

**AGAINST THE AWARD DATED 17-04-2012 IN OPMV 782/2008 OF MOTOR ACCIDENTS
CLAIMS TRIBUNAL, MANJERI**
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APPELLANT(S):

**USMAN,
AGED 50 YEARS, PALAKKALPARAMBIL HOUSE,
PUTHOOR PALLIKKAL P.O., VALAKKANDI, MALAPPURAM DISTRICT.**

BY ADV. SRI.P.SAMSUDIN

RESPONDENT(S):

- 1. YOUSUF K.,
S/O. ALAVIKUTTY, KANNACHERI HOUSE,
VELIMUKKU POST - 676 317, TIRUR VIA,
MALAPPURAM DISTRICT (DRIVER).**
- 2. MOIDEEN,
S/O. ALAVIKUTTY, 4/183, KAITHAKATH HOUSE,
VELIMUKKUY POST -676 317, TIRUR VIA
MALAPPURAM DISTRICT (OWNER).**
- 3. RELIANCE GENERAL INSURANCE,
XL/3599, 4TH FLOOR,
ELIZEBATH ALEXANDER MEMORIAL BUILDING,
SHANMUGHAM ROAD, MARINE DRIVE, COCHIN - 682 035.**

R3 BY ADV. SRI.K.B.RAMANAND

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

msv/

P.B.SURESHKUMAR, J.

M.A.C.A.No.1152 OF 2012

Dated this the 23rd day of February, 2015

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 business man. The accident took place on 23.4.2008. The claimant was aged 50 years at the time of accident. A sum of Rs.1,00,000/- was claimed in the 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.36,650/- 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. The Tribunal noticed that the claimant sustained fracture of second and third metacarpal of left hand; fracture of left ring finger and index finger, fracture of both bones left forearm etc. He was hospitalised for 9 days and had reviews on 14 occasions thereafter.

5. The Tribunal granted compensation for loss of earnings for a period of five months, of which the compensation for the first three months was granted reckoning his monthly income at Rs.3,500/- and the compensation for the remaining two months was granted reckoning his monthly income at Rs.1,750/-. 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 five months reckoning his monthly income at Rs.4500/-. If the compensation for loss of earnings is computed for a period of five months, reckoning the monthly income at 4500/-, the claimant is entitled to a further sum of Rs.8500/- on that head. Despite the fact that the claimant had undergone inpatient treatment for a period of nine days, the Tribunal granted only

a sum of Rs.900/- towards bystander's expenses. Since the accident took place in the year 2008, the claimant is entitled to a further sum of Rs.1,350/- towards bystander's expenses. Towards transportation, the Tribunal has granted only a sum of Rs.1500/- as compensation. It is beyond dispute that the claimant had to come to the hospital for review of the treatment on 14 occasions after the discharge. In the circumstances, I am of the view that the claimant has to be granted a further sum of Rs.1500/- towards transportation expenses. There was no claim towards loss of amenities and enjoyments in life. 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 sum of Rs.15,000/- towards loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.26,350/- 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.26,350/- 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.

P.B.SURESH KUMAR, JUDGE

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