

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

MACA.No. 1322 of 2012

**AGAINST THE AWARD IN OP(MV) 797/2008 of MOTOR ACCIDENTS CLAIMS TRIBUNAL,
OTTAPPALAM DATED 23-02-2011**

APPELLANT(S)/PETITIONER:

**ABOObAKKAR
S/O.MOIDHEEN, PALAKKAL HOUSE, RAMLA MANZIL,
PONNANY DESOM, PUTHUPONNANY, MALAPPURAM.**

**BY ADVS.SRI.SHEJI P.ABRAHAM
SRI.O.K.MURALEEDHARAN**

RESPONDENT(S)/RESPONDENTS:

- 1. MADHU
S/O.KUTTAPPAN NAIR, KODAYIL HOUSE, PAVARATTY DESOM
PAVARATTY VILLAGE, CHAVAKKAD TALUK
THRISSUR DISTRICT-680026.(DRIVER OF KL 4/F 4577 BUS).**
- 2. K.A.JAYAVALLY,
W/O.K.P.MANOHRAN, KOOLYATH HOUSE, PERUVALLUR
MULLASSERY VILLAGE, CHAVAKKAD TALUK
THRISSUR-680023 (OWNER OF KL 4/F 4577 BUS).**
- 3. UNITED INDIA INSURANCE COMPANY LIMITED
ORISON COMPLEX, WADAKKANCHERRY ROAD
KUNNAMKULAM-680003. POLICY NO.101200/31/07/0100006150 VALID FROM
16/11/2007 TO 15/11/2008.**

**BY SRI.GEORGE CHERIAN (THIRUVALLA)
R3 BY ADV.SRI.K.S.SHANITH**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

P.B.SURESH KUMAR, J.

M.A.C.A.No.1322 of 2012.

Dated this the 6th day of April, 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 coolie. He was aged 70 years at the time of accident. The accident took place on 26.5.2008. 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.30,000/- 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.

3. Heard the learned counsel for the claimant

and the learned counsel for the insurer.

4. Ext.A2 is the copy of the wound certificate produced by the claimant before the Tribunal. The injuries sustained by the claimant, as recorded in Ext.A2 is, "fracture distal end radius left". Ext.A6 is the discharge summary issued to the claimant from the Jubilee Mission Medical College Hospital, Thrissur. The Tribunal found that the claimant was admitted and treated as inpatient in the said hospital for five days from 26.5.2008 to 31.5.2008.

5. The Tribunal granted only a sum of Rs.3,000/- towards compensation for loss of earnings reckoning the monthly income of the claimant at Rs.1,500/-. In the nature of the injuries sustained by the claimant and having regard to the age of the claimant, I am of the view that he is entitled to compensation towards loss of earnings for a period of four months reckoning his monthly income at Rs.3,000/-. The claimant is therefore entitled to a further sum of Rs.9,000/- towards loss of earnings. Only a sum of Rs.12,000/- is seen granted towards compensation for pain

and sufferings. In the nature of the injuries sustained by the claimant and the treatment undergone by him, he is entitled to a further sum of Rs.8,000/- towards compensation for pain and sufferings. It is seen that the Tribunal granted only a sum of Rs.3,000/- towards loss of amenities and enjoyments in life. Having regard to the age of the claimant, according to me, the claimant is entitled to a further sum of Rs.7,000/- towards compensation for loss of amenities and enjoyments in life. 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

M.A.C.A.No.1322/2012.

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to interest for the whole amount of compensation at the rate of 9% per annum, except for the period of delay in filing the appeal, viz., 370 days as ordered in C.M.Application No.1579 of 2012.

Sd/-P.B.SURESH KUMAR, JUDGE.

Kvs/-

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PA TO JUDGE.