

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

MACA.No. 1453 of 2012 ()

AGAINST THE AWARD IN OPMV 1276/2008 of M.A.C.T.,
MANJERI, DATED 27-12-2011

APPELLANT/PETITIONER:-

MOHAMMED ALI
S/O.KUNHALI, MANKKAL HOUSE, CHERUKODE P.O.
PORUR, MALAPPURAM DISTRICT.

BY ADV. SRI.V.RAJENDRAN

RESPONDENTS/RESPONDENTS:-

1. SURESH.N
S/O.NARAYANAN, KUNNAKKAD, THENKURISSI P.O.
678671, PALAKKAD DISTRICT. (DRIVER).

2. D.SURESH
S/O.CHERADIYIL HOUSE, MANAKKAD P.O., 685608
THODUPUZHA (OWNER).

3. ORIENTAL INSURANCE CO.LTD
BRANCH OFFICE, CITY HIGHTS BUILDING, SOUTH JUNCTION
CHALAKKUDY P.O., (INSURER)-680307.

R3 BY ADV. SMT.A.SREEKALA

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A.No.1453 of 2012.

Dated this the 23rd day of March, 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 an agriculturist. He was aged 45 years at the time of accident. The accident took place on 10.11.2006. A sum of Rs.75,000/- 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.4,000/- 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. 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 produced by the claimant before the Tribunal. The only injury noted in Ext.A2 is a lacerated injury sustained by the claimant on his right leg. Ext.A3 is the discharge summary issued to the claimant from the hospital where he was admitted and treated for the injuries. It is seen from Ext.A3 that the claimant had undergone inpatient treatment in the hospital for 12 days. Ext.A4 series are the medical bills produced by the claimant for an amount of Rs.18,116/-. Since the injuries sustained by the claimant in the accident as recorded in the wound certificate do not appear to be serious, the Tribunal entertained a doubt as to whether the medical bills produced by the claimant represent the medical expenses incurred by the claimant in connection with the injuries sustained by him in the accident. Likewise, on account of the very same reason, the Tribunal also entertained a doubt as to whether the claimant had undergone inpatient treatment at all in the hospital. It seems that it is on

account of the said reason that the Tribunal had limited the compensation payable to the claimant to Rs.4,000/-.

5. The learned counsel for the appellant contended that in the absence of any evidence to the contrary, the medical bills produced by the claimant should have been accepted by the Tribunal. Likewise, it was also pointed out that in the absence of any evidence to the contrary, the Tribunal should have taken that the claimant had undergone impatient treatment in the hospital for 12 days as claimed by him.

6. On an evaluation of the facts and circumstances of the case, I am of the view that it is a case where the claimant should have adduced evidence before the Tribunal. In so far as it is admitted that the claimant had sustained injuries in the accident referred to in the claim petition, I am of the view that he shall not be denied just compensation merely for the reason that he could not adduce evidence to substantiate his case.

7. In the result, the impugned judgment is set aside

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and the Tribunal is directed to dispose of the claim petition afresh after affording the parties an opportunity to adduce evidence. The parties shall appear before the Tribunal on 25.5.2015.

The appeal is allowed as above.

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

Kvs/-

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PA TO JUDGE.