

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/ 30TH MAGHA, 1936

MACA.No. 1706 of 2012 ()

AGAINST THE AWARD IN OPMV 513/2004 of SPL.C SPE/CBI-I&3 ADD.DC.ADD
MACT, ERNAKULAM, DATED 18-09-2010.

APPELLANT/PETITIONER:-

REMESAN P.V., AGED 51 YEARS
S/O.PARAMESWARAN, VEDEKATTUCHIRAVEETIL HOUSE
SOUTH OF CHEMMANADU DEVI TEMPLE, KODATHURUTHU P.O.
KUTHIATHODU.

BY ADVS.SRI.C.ARUN PRASANTH
SRI.A.S.BRIJESH
SMT.ROOPA RAMACHANDRAN

RESPONDENTS/RESPONDENTS 1 TO 3:-

1. R.BIJU,
CHEPPANATHU HOUSE, KUTHIYATHODU P.O., CHERTHALA
ALAPPUZHA - 688 661.

2. SREEKUMAR,
S/O.RAVEENDRAN, CHEPPANATHUPARAMBIL HOUSE
KUTHIYATHODU P.O., CHERTHALA - 688 661

3. THE NATIONAL INSURANCE COMPANY LIMITED,
AROOR - 688 534.

R3 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A. No.1706 of 2012.

Dated this the 19th day of 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 Carpenter. The accident took place on 26.4.2003. The claimant was aged 43 years at the time of accident. A sum of Rs.41,000/- 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.20,116/- 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.A6 is the wound certificate of the claimant. Ext.A7 is the treatment certificate. It is seen that the claimant sustained fracture of his right big toe. It is also seen that the claimant had undergone inpatient treatment in a hospital for 9 days.

5. A sum of Rs.6,000/- was granted by the Tribunal to the claimant by way of compensation towards loss of earnings for a period of two months, reckoning his monthly income at Rs.3,000/-. As noticed above, the accident took place in the year 2003. The claimant being a carpenter, in the nature of the injuries sustained and the treatment undergone by him, according to me, he is entitled to compensation for loss of earnings for a period of three months, reckoning his monthly income at Rs.4,500/-. The claimant is therefore entitled to a further sum of Rs.7,500/- towards compensation on that head. A sum of Rs.4,000/- 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.6,000/- towards compensation for pain and sufferings. Towards loss of amenities and enjoyments in life, the Tribunal has granted only a sum of Rs.3,000/- 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.7,000/- towards loss of amenities and enjoyments in life. Towards extra-nourishment, it is seen that the Tribunal has not granted any amount. According to me, the claimant is entitled to a sum of Rs.2,000/- towards compensation for extra-nourishment. Towards bystander's expenses, the Tribunal has granted a sum of Rs.1,500/-. Since the claimant had undergone inpatient treatment for 9 days, I am of the view that the claimant is entitled to a further sum of Rs.1,000/- on that head. Thus, the claimant is entitled to a further sum of Rs.23,500/- 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.23,500/- to the claimant by way of

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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., 588 days as ordered in C.M.Application No.2013 of 2012.

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

Kvs/-

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PA TO JUDGE.