

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

MACA.No. 1756 of 2012 ()

AGAINST THE AWARD IN OPMV 1226/2008 of M.A.C.T.,
OTTAPPALAM, DATED 21-11-2011.

APPELLANT/APPELLANT:-

DILEEPPKUMAR
S/O.RAVUNNY (LATE), VADAKKUMURY HOUSE, P.O.PUDUKKAD
NORTHTHORAVU DESOM, THORAVU VILLAGE, THRISSUR.

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

RESPONDENTS/RESPONDENTS:-

1. JOHNY
S/O.VAREED, ATTOKKARAN HOUSE, VADAKKETHORAVU DESOM
THORAVU VILLAGE, MUKUNDAPURAM TALUK
THRISSUR-680 001.
(DRIVER OF KL 8 K 9019 AUTO RICKSHAW) .

2. MR.T.V.PAUL, THEKKENATH HOUSE, ALAGAPPA NAGAR P.O.,
THRISSUR-680 001.
(OWNER OF KL 8 K 9019 AUTO RICKSHAW)

3. NATIONAL INSURANCE CO.LTD., BRANCH OFFICE, MAIN ROAD,
IRINJALAKUDA
THRISSUR-680 001.
(POLICY NO.570701/31/07/670000562VALID FROM
16/01/08 TO 15/01/09) .

R2 BY ADV. SMT.T.K.USHA RANI
R2 BY ADV. SRI.A.D.SHAJAN
R3 BY ADV. SRI.RAJESH THOMAS
R3 BY SRI.JOHN JOSEPH VETTIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A. No.1756 of 2012.

Dated this the 18th 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 goldsmith. The accident took place on 4.8.2008. The claimant was aged 45 years at the time of accident. A sum of Rs.1,00,000/- 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.20,200/- 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. Exhibit A2 is the wound certificate. The Tribunal noticed from Exhibit A2 that the claimant sustained comminuted fracture of middle finger, lacerated wounds on middle and ring fingers etc. Exhibit A6 is the discharge summary issued to the claimant from Metropolitan Hospital, Thrissur. The Tribunal noticed that the claimant had undergone inpatient treatment for 8 days in connection with the injuries sustained by him in the accident.

5. A sum of Rs.3,000/- alone was granted by the Tribunal to the claimant by way of compensation for loss of earnings for a period of one month. As noticed above, the accident took place in the year 2008. The claimant being a goldsmith, in the light of the injury sustained on his hand, I am of the view that the claimant is entitled to compensation for loss of earnings for a period of two months, reckoning his monthly income at Rs.4,500/-. A sum of Rs.6,000/- 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. The Tribunal has not granted any amount to the claimant towards compensation for continuing permanent disability. Exhibit A7 is the Disability Certificate issued to the claimant by the orthopaedic surgeon attached to the Medical College hospital, Thrissur, certifying disability of the claimant at 4%. The claimant being a goldsmith who sustained injuries on his fingers, I am of the view that the claimant has to be granted compensation for continuing disability also reckoning his functional disability at 4%, applying the multiplier '14'. The claimant is therefore, entitled to a sum of Rs. 30,240 towards compensation on that head. Thus, the claimant is entitled to a further sum of Rs.40,240/- 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.40,240/- 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

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at which the interest was awarded by the Tribunal for the compensation granted.

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

Kvs

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PA TO JUDGE.