

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

MACA.No. 1787 of 2012

O.P.(MV)NO.771/2008 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOLLAM

APPELLANT(S)/PETITIONER :

KUMARADAS,
S/O.RADHAKRISHNAN, RADHA VILASAM, MANDIRAM JUNCTION,
THAZHUTHALA, KOLLAM.

BY ADV. SRI.PRATHEESH.P

RESPONDENT(S)/2ND RESPONDENT :

1. THE DIVISIONAL MANAGER,
ORIENTAL INSURANCE CO.LTD., KOLLAM- 691 001.

* ADDITIONAL R2 IMPEADED

2. NIZAMUDEEN,
NELLIVILA VEEDU, PUNTHALA, PATHANAPURAM,
KOLLAM- 689 695.

* ADDITIONAL R2 IS IMPEADED AS PER ORDER DATED 17.07.2015 IN
I.A.NO.417 OF 2013.

R1 BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)
BY ADV. SRI.P.VJYOTHI PRASAD
ADDL.R2 BY ADV. SRI.S.SHANAVAS KHAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 18-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

Msd.

P.B.SURESH KUMAR, J.

M.A.C.A.No.1787 of 2012

Dated this the 18th day of August , 2015

JUDGMENT

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 accident took place on 22.2.2007. The claimant was aged 28 years at the time of accident. He is a businessman. A sum of Rs.50,000/- 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.17,500/- and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance

policy, the insurer of the vehicle 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. The Tribunal found that the claimant sustained fracture of clavicle and fracture of the phalanx of the right big toe in the accident. The Tribunal also found that the claimant had undergone inpatient treatment in a hospital for 2 days.

5. Coming to the quantum of compensation, the Tribunal granted compensation for loss of earnings to the claimant for a period of two months, reckoning his monthly income at Rs.2500/-. Since the accident took place in the year 2007, according to me, the monthly income of the claimant should have been reckoned by the Tribunal at Rs.5,000/-. Thus, the claimant is entitled to a further sum of Rs.5,000/- towards loss of earnings. It is seen that towards bystander's expenses, the Tribunal granted to the claimant

only sum of Rs.200/-. Since the accident took place in the year 2007, according to me, the claimant is entitled to compensation for bystander's expenses at the rate of Rs.300/- per day. The claimant is, therefore, entitled to a further sum of Rs.400/- on that head. Only a sum of Rs.500/- is seen granted towards extra nourishment. Having regard to the facts and circumstances of the case, I am of the view that the claimant is entitled to a further sum of Rs.2,500/- towards extra nourishment. It is seen that only a sum of Rs.8,000/- has been granted by the Tribunal to the claimant towards pain and sufferings. Having regard to the nature of 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.7,000/- on that head. Likewise, no compensation is seen granted towards compensation for loss of amenities and enjoyments in life. On an evaluation of the materials on record, I am of the view that the claimant is entitled to a sum of Rs.7,500/-

towards compensation for loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.22,400/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7.5% 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.22,400/- to the claimant by way of compensation. Needless to say, the claimant will be entitled to interest for the whole amount of compensation at the rate of 9% per annum.

P.B.SURESH KUMAR, JUDGE.

smm