

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

MACA.No. 61 of 2015 ()

OPMV 2282/2011 of M.A.C.T.,ERNAKULAM

APPELLANT(S)/PETITIONER:

MARY THOMAS
W/O.THOMAS, KUZHIVELIL HOUSE, KARUMATHARA.P.O.
KODATHUKUNNU.

BY ADVS.SRI.A.N.SANTHOSH
SRI.MAJO K. JACOB
SMT.LIJIN A.GEORGE

RESPONDENT(S)/RESPONDENTS:

1. BALAKRISHNAN A.G
S/O.GOPALAKRISHNA SHENOY, KRISHNA NIVAS, PALARIVATTOM
KOCHI-682 024.

2. THE NEW INDIA ASSURANCE COMPANY LTD.
RAMAN CENTRE, 2ND FLOOR, VALANJAMBALAM
KOCHI-682 016.

R2 BY ADV. SRI.P.G.GANAPPAN
BY SRI.A.A.ZIYAD RAHMAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.61 of 2015

Dated 12th 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 engaged in the sale of ready made garments. The accident took place on 10.9.2010. The claimant was aged 46 years at the time of accident. A sum of Rs.50,000/- 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.15,500/- 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.A3 is the wound certificate issued to the claimant from Lisie Hospital. The Tribunal noticed that the claimant sustained a blunt injury over her left knee, fracture on lateral condyle, fracture over nasal bone etc.

5. A sum of Rs.2,000/- was granted by the Tribunal to the claimant by way of compensation towards loss of earnings for a period of 15 days, reckoning her monthly income at Rs.4,000/-. As noticed above, the accident took place in the year 2010. In the nature of the injuries sustained by the claimant, according to me, she is entitled to compensation for loss of earnings for a period of one month, reckoning her monthly income at Rs.4,500/-. If the compensation for loss of earnings is computed for a period of one month, reckoning the monthly income at Rs.4,500/-, the claimant is entitled to a further sum of Rs.2,500/- towards compensation on that head. Towards loss of amenities and enjoyments in life, the Tribunal has not granted any compensation. On an evaluation of the nature of the injuries sustained by the claimant, the claimant has to be granted a sum of Rs.10,000/- towards loss of amenities and enjoyments in life. Towards extra-nourishment also, the Tribunal had not granted any compensation.

According to me, the claimant is entitled to a further sum of Rs.2,000/- towards compensation for extra-nourishment. Thus, the claimant is entitled to a further sum of Rs.14,500/- 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.14,500/- 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 at which the interest was awarded by the Tribunal for the compensation granted, except for the period of delay in filing the appeal, viz., 190 days as ordered in C.M.Application No.69 of 2015.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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(true copy)