

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. 98 of 2015 ()

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OPMV 765/2009 of M.A.C.T.,KOLLAM

APPELLANT/PETITIONER:

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SAJEEV KUMAR, AGED 49 YEARS  
S/O.PRABHAKARAN, RESIDING AT EDACKAVIL VEEDU  
ODANAVATTOM, KOLLAM

BY ADVS.SRI.PRATHEESH.P  
SMT.S.SEETHA

RESPONDENT/3RD RESPONDENT:

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THE ORIENTAL INSURANCE CO. LTD  
KADAPPAKKADA, KOLLAM 691 008

BY ADV. SMT.REKHA NAIR  
BY SMT.K.S.SANTHI

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.**

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**M.A.C.A. No.98 of 2015**  
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**Dated 12<sup>th</sup> 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 mason. The accident took place on 14.7.2008. The claimant was aged 44 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.22,500/- 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.A8 is the wound certificate of the claimant. Ext.A9 is the discharge card. The Tribunal noticed that the claimant sustained a crush injury on his right hand. He also sustained fracture and dislocation of the tip of the little finger and fracture of the head of the middle finger. He had undergone treatment as inpatient in a hospital for five 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 2008. In the nature of the injuries sustained by the claimant, according to me, he is entitled to compensation for loss of earnings for a period of two months, reckoning his monthly income at Rs.4,500/-. If the compensation for loss of earnings is computed for a period of two months, reckoning the monthly income at Rs.4,500/-, the claimant is entitled to a further sum of Rs.3,000/- towards compensation on that head. Towards pain and sufferings, the Tribunal had granted only a

sum of Rs.10,000/- to the claimant. 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.2,500/- towards compensation for pain and sufferings. 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, only a sum of Rs.1,000/- is seen granted by way of compensation. According to me, the claimant is entitled to a further sum of Rs.1,000/- towards compensation for extra-nourishment. Likewise, towards bystander's expenses, for 5 days of hospitalization, the Tribunal had granted only a sum of Rs.500/-. According to me, the claimant is entitled to a further sum of Rs.750/- towards bystander's expenses. Thus, the claimant is entitled to a further sum of Rs.17,250/- 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.17,250/- 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., 916 days as ordered in C.M.Application No.114 of 2015.

**Sd/-**

**P.B.SURESH KUMAR, JUDGE.**

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