

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. 155 of 2015 ()

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OPMV 949/2008 of M.A.C.T.,KOZHIKODE

APPELLANT(S)/PETITIONER :

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CHOYIKUTTY AGED 65 YEARS

S/O. KANDAN, NANGARI PUNATHIL HOUSE, NELLIKODE POST  
KOZHIKODE DISTRICT.

BY ADV. SMT.K.V.RESHMI

RESPONDENT(S)/3RD RESPONDENT :

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THE ORIENTAL INSURANCE CO.LTD

DIVISIONAL OFFICE, UNITY COMPLEX, 2ND FLOOR  
S.N.PARK ROAD, KOZHIKODE.

R1 BY ADV. SRI.R.PADMARAJ

R1 BY ADV. SRI.P.J.ANTONY JOSEPH MARIADAS

R1 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.155 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 coolie. The accident took place on 30.3.2008. The claimant was aged 59 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.40,847/- 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.A2 is the wound certificate of the claimant.

Ext.A3 is the discharge summary issued to the claimant from the hospital where he was admitted and treated for the injuries sustained by him. The Tribunal noticed that the claimant sustained fracture of left humerus, fracture of left lateral malleolus etc. The Tribunal also noticed that the claimant was admitted and treated in a hospital for 27 days.

5. A sum of Rs.2,000/- was granted by the Tribunal to the claimant by way of compensation towards loss of earnings. As noticed above, the accident took place in the year 2008. In the nature of the injuries sustained by the claimant, according to me, the claimant is entitled to compensation for loss of earnings for a period of three months, reckoning his monthly income at Rs.4,500/-. If the compensation for loss of earnings is computed for a period of three months, reckoning the monthly income at Rs.4,500/-, the claimant is entitled to a further sum of Rs.11,500/- towards compensation on that head. Towards loss of amenities and enjoyments in life, the Tribunal has granted only a sum of Rs.1,500/- 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.8,500/- towards loss of amenities and enjoyments in life. Towards extra-nourishment, no compensation is seen granted by the Tribunal. According to me, the claimant is entitled to a

further sum of Rs.2,000/- towards compensation for extra-nourishment. Towards bystander's expenses, only a sum of Rs.1,000/- is seen granted by the Tribunal. According to me, the claimant has to be compensated at the rate of Rs.250/- per day for the 27 days of hospitalisation. The claimant is therefore, entitled to a further sum of Rs.5,750/- towards compensation for bystander's expenses. Thus, the claimant is entitled to a further sum of Rs.27,750/- 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.27,750/- 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., 1741 days as ordered in C.M.Application No.169 of 2015.

**Sd/-**

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

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