

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

MACA.No. 62 of 2013 ()

OPMV 1070/2007 of MACT, IRINJALAKUDA

APPELLANT/PETITIONER :

SUNIL

S/O.SREEDHARAN, POOVATHINKAL HOUSE,

MANAKULANGARA P.O, MUKUNDAPURAM TALUK, THRISSUR DISTRICT

BY ADVS.SRI.P.V.BABY

SRI.A.N.SANTHOSH

RESPONDENT(S)/RESPONDENTS :

1. SUDHEER

KALLUPARAMBIL HOUSE KALLETUMKARA, IRINJALAKUDA 680683

2. RAJESH

S/O.RAJAN, KOCHERI HOUSE, THOMMANA P.O

THRISSUR DISTRICT 680683

3. ORIENTAL INSURANCE COMPANY LTD.,

CHALAKKUDY 680 307

R3 BY ADV. DR.ELIZABETH VARKEY

R3 BY SRI.GEORGE CHERIAN (THIRUVALLA)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.62 of 2013

Dated 2nd March, 2015.

J U D G M E N T

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 claimant is a diamond worker. The accident took place on 10.3.2007. The claimant was aged 31 years at the time of accident. A sum of Rs.1,00,000/- 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.57,828/- 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. From the documents produced by the claimant, the Tribunal found that the claimant sustained fracture of right distal radius. The Tribunal also found that the claimant had to amputate his left big toe on account of the injuries sustained by him in the accident. Ext.A7 is the disability certificate issued to the claimant by PW2. In Ext.A7, the disability sustained by the claimant is assessed at 8%. The Tribunal granted a sum of Rs.36,000/- to the claimant towards compensation for continuing disability, reckoning his monthly income at Rs.2,500/-. According to me, since the accident took place in the year 2007, the monthly income of the claimant should have been reckoned by the Tribunal at Rs.4,500/-. Therefore, the claimant is entitled to get a further sum of Rs.28,800/- on that head. No compensation is seen awarded for loss of earnings. According to me, in the nature of the injuries sustained by the claimant, he is entitled to compensation for loss of earnings for a period of two months, which I fix at Rs.9,000/-. It is seen that no compensation is granted by the Tribunal towards loss of amenities and enjoyments in life. 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 sum of Rs.5,000/- towards compensation for loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.42,800/- towards compensation.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.42,800/- 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.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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(true copy)