

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

MACA.No. 350 of 2015 ()

AGAINST THE AWARD IN OPMV 636/2011 of M.A.C.T.,
KOZHIKODE, DATED 11-01-2012

APPELLANT/PETITIONER:-

MARUTH PANDIAN
S/O.KODUNGALATHEVAR, SERVICE STATION, PO KUTTIKATTOOR
KOZHIKODE.

BY ADVS.SRI.V.S.CHANDRASEKHARAN
M.V.DAS
SMT.LEKSHMI SWAMINATHAN

RESPONDENTS/3RD RESPONDENT:-

THE UNITED INDIA INSURANCE CO LTD
CITY BRANCH -1, RAMEEZ ARCADE, C.H.FLY OVER JUNCTION
CHEROOTTY ROAD, KOZHIKODE - 673 032.

BY SRI.JOHN JOSEPH VETIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A.No.350 of 2015.

Dated this the 23rd day of 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 was a watchman. He was aged 56 years at the time of accident. The accident took place on 8.8.2009. 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.36,112/- 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. The Tribunal found that the claimant sustained a few injuries in the accident including fracture of left femur. He was admitted and treated at the Medical College Hospital, Kozhikode in connection with the injuries sustained by him. It is stated that the claimant was admitted and treated as inpatient in the hospital for nine days. A photocopy of the reference card issued to the claimant from the Medical College Hospital, Kozhikode was made available to me at the time of hearing. The said document is not part of the records. It is seen from the said reference card that the claimant was admitted for treatment in the hospital on 9.8.2009 and discharged on 17.9.2009.

5. Though the Tribunal found that the claimant had sustained fracture of left femur in the accident, the Tribunal has granted only a sum of Rs.6,000/- towards loss of earnings. Since the accident took place in the year 2009, according to me, the claimant is entitled to compensation for loss of earnings atleast for four months reckoning his

monthly income at Rs.5,000/-. The claimant is, therefore, entitled to a sum of Rs.14,000/- towards compensation on that head. Towards extra nourishment, the Tribunal granted only a sum of Rs.400/-. In the nature of the injuries sustained by the claimant, I am of the view that he is entitled to a further sum of Rs.2,000/- towards compensation for extra nourishment. Since no document was produced before the tribunal to prove the hospitalisation, I am not *inclined to* grant any compensation towards bystanders' expenses. Though a sum of Rs.10,000/- was claimed towards loss of amenities and enjoyments in life, only a sum of Rs.4,000/- is seen granted. In the nature of the injuries sustained by the claimant, I am of the view that he is entitled to a further sum of Rs.6,000/- towards compensation for loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.22,000/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of

7% 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.22,000/- 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, except for the period of delay in filing the appeal, viz., 992 days as ordered in C.M.Application No.384 of 2015.

Sd/-P.B.SURESH KUMAR, JUDGE.

Kvs/-

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PA TO JUDGE.