

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. 405 of 2015 ()

AGAINST THE AWARD IN OPMV 122/2008 of M.A.C.T.,
KOZHIKODE, DATED 05-07-2010

APPELLANT/PETITIONER:-

SURESH BABAU AGED 33 YEARS
S/O.PADMANABHAN NAIR (LATE)
KIZHAKKE PANDIKADAVATH HOUSE, CHATHAMANGALAM POST
VIA-REC, KOZHIKODE

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

RESPONDENTS/3RD RESPONDENT:-

THE NEW INDIA ASSURANCE COMPANY LTD
DIVISIONAL OFFICE, SILVER PLAZA BUILDING
I.G.ROAD KOZHIKODE - 676 631

BY SRI.A.A.ZIYAD RAHMAN

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.405 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 an employee in a private firm. He was aged 33 years at the time of accident. The accident took place on 15.7.2007. 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.65,966/- 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 lacerated wound with fracture of P1 of the third right toe, fracture third meta tarsal and a lacerated wound of 10 x 5 x 2 cm. over the dorsum of right foot. Ext.A2 wound certificate produced by the claimant would show that he had sustained the aforesaid injuries. Ext.A3 is the reference card issued to the claimant from the hospital. Ext.A3 would indicate that the claimant was admitted in the hospital in connection with the accident on 15.7.2007 and discharged on 27.7.2007. Ext.C1 is the disability certificate issued to the claimant by the competent authority assessing his disability at 10%.

5. Though the claimant contended that he is an employee of a private firm earning a monthly income of Rs.8,000/-, no document was produced to substantiate that contention. The Tribunal had granted a sum of Rs.48,000/-

towards compensation for permanent disability, reckoning the monthly income of the claimant at Rs.2,500/-, applying the multiplier of '16'. Since the accident took place in the year 2007, I am of the view that the monthly income of the claimant should have been reckoned at Rs.4,000/-. The claimant is, therefore, entitled to a further sum of Rs.28,800/- towards compensation for permanent disability. Since he was granted only a sum of Rs.2,500/- towards loss of earnings, he is entitled to a further sum of Rs.1,500/- towards compensation for the loss of earnings also. Thus, the claimant is entitled to a further sum of Rs.30,300/- 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.30,300/- 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., 1546 days as ordered in C.M.Application No.443 of 2015.

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

Kvs/-

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PA TO JUDGE.