

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/ 30TH MAGHA, 1936

MACA.No. 706 of 2013 ()

AGAINST THE AWARD IN OPMV 1022/2010 of M.A.C.T.,
KOZHIKODE, DATED 30-06-2012

APPELLANT/PETITIONER:-

VELAYUDHAN AGED 71 YEARS
S/O.BICHUTTI, MELATT HOUSE, VALANCHERRY PARAMBA
FEROKE P O, KOZHIKODE

BY ADVS.SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN

RESPONDENTS/RESPONDENTS:-

1. AVARAN
14/363, VIRUPAKKIL HOUSE, BEYPORE P O
KOZHIKODE

2. MUHAMMED RAFI, AGED 27 YEARS
S/O.USMAN, C P HOUSE, CHANKUPALAM PARAMBA
ENNAPPADAM, KALLAI P O, KOZHIKODE

3. UNITED INDIA INSURANCE COMPANY LIMITED
CITY BRANCH-I, RAMEEZ ARCADE CH FLY OVER JUNCTION
CHEROOTY ROAD, KOZHIKODE-673002

R3 BY ADV. SMT.D.GEETHA
R3 BY ADV. SMT.K.SHERIN MOHAN
BY SRI.JOHN JOSEPH VETIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A.No.706 of 2013.

Dated this the 19th day of February, 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 Watchman in a petrol pump. The accident took place on 20.3.2010. The claimant was aged 68 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.49,604/- 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 injuries sustained by the claimant, as noted in

Ext.A2 wound certificate were type III open fracture of both bones of the right leg and two lacerated wounds on right leg. The Tribunal noticed that the claimant was undergoing treatment as inpatient at the Medical College Hospital, Kozhikode from 20.3.2010 to 31.3.2010.

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 three months, reckoning his monthly income at Rs.2,000/-. Since the accident took place in the year 2010, according to me, the claimant is entitled to compensation for loss of earnings reckoning his monthly income at Rs.4,500/-. The claimant is therefore entitled to a further sum of Rs.7,500/- towards compensation on that head. A sum of Rs.9,600/- was granted by the Tribunal to the claimant towards compensation for continuing permanent disability, reckoning his monthly income at Rs.2,000/- and the permanent disability at 8%, applying '5' as the multiplier. The said compensation is also liable to be revised reckoning the monthly income at Rs.4,500/-. The claimant is, therefore, entitled to a further sum of Rs.12,000/- on that head. Towards loss of amenities and enjoyments in life, the Tribunal has granted only a sum of Rs.5000/- 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.9,500/- towards loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.29,000/- 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.29,000/- 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., 190 days as ordered in C.M.Application No.903 of 2013.

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

Kvs/-

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PA TO JUDGE.