

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. 378 of 2011 ()

AGAINST THE AWARD IN OPMV 335/2008 of M.A.C.T.,
OTTAPPALAM, DATED 14-06-2010

APPELLANT/PETITIONER:-

SHAFEER, AGED 12 YEARS, REPRESENTED
BY NEXT FRIEND AND GUARDIAN HAMSA, AGED 40 YEARS
S/O.MUHAMMED, ANGADIKADU VEEDU, KARIMBA
MANNARKKAD.

BY ADVS.SMT.T.D.RAJALAKSHMI
SRI.R.SREEHARI

RESPONDENTS/RESPONDENTS:-

1. JAFFAR, S/O.SAIDU, KARIMBANAKKAL HOUSE,
MANNARKKAD P.O., PIN-678582.

2. S.SENTHILKUMAR, S/O.SHANMUGAM, 42,
ILANGADADIGAL STREET, MUTHIRAPALAYAM, PONDICHERY
PIN-607 402.

3. THE UNITED INDIA INSURANCE COMPANY LTD,
BRANCH OFFICE, HOSPITAL JUNCTION ROAD, MANNARKKAD P.O.
PIN-678582.

R3 BY ADV. SRI.P.SANKARANKUTTY NAIR

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.378 of 2011.

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 nine year old boy. The accident took place on 10.2.2008. A sum of Rs.50,000/- 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.14,650/- 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 the wound certificate are, swelling of eyelids left, abrasion on forehead, frontal contusion etc. It is seen that to rule out the possibility of skull fracture, a CT scan was done. It is also seen that the claimant was admitted and treated at Aswini Hospital, Thrissur in connection with the accident for the period from 10.2.2008 to 15.2.2008. The compensation payable to the claimant has to be assessed on the basis of the said materials.

5. The Tribunal granted only a sum of Rs.3,000/- to the claimant towards pain and sufferings. Though the injuries sustained by the claimant as noted in the wound certificate appear to be trivial in nature, the claimant was admitted in the hospital for five days. It is also seen that the claimant had to spend a sum of Rs.10,854/- towards medical expenses. In the circumstances, according to me, the claimant should have been granted some more amount towards pain and sufferings. On an evaluation of

the materials on record, I am of the view that the claimant is entitled to a sum of Rs.7,000/- more towards pain and sufferings. Despite the fact that the claimant was undergoing treatment in the hospital as inpatient for five days, it is seen that the Tribunal had granted only a sum of Rs.1,000/- towards extra nourishment. I am of the view that the claimant is entitled to some more amount towards extra nourishment, which I fix at Rs.2,000/-. Thus, the claimant is entitled to a further sum of Rs.9,000/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 8% 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.9,000/- to the claimant by way of compensation. Needless to say, the claimant will be entitled

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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., 169 days as ordered in C.M.Application No.616 of 2011.

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

Kvs/-

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PA TO JUDGE