

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. 2795 of 2012 ()

OPMV 122/2009 of M.A.C.T., MANJERI

APPELLANT(S)/PETITIONER IN OP:

CHERU KOTTY PULLANI @ CHERIYAKKI,
D/O.KUMMINI KEERAN, BHARANI KUNNU HOUSE, ARIMBRA P.O.
KONDOTTY, MALAPPURAM DISTRICT.

BY ADVS.SRI.B.MOHANLAL
SRI.T.PRASAD
SMT.NIKHILA SOMAN

RESPONDENT(S)/RESPONDENTS IN THE OP:

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1. MOHAMMED, S/O.VEERAN,
PARAMBAN HOUSE, ARIMBRA P.O.MALAPPURAM, PIN 676 638.
 2. THE NEW INDIA ASSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE, MANJERI ROAD, MALAPPURAM
PIN 676 121.

R2 BY ADV. SRI.A.C.DEVY
R2 BY SRI.A.A.ZIYAD RAHMAN

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.2795 of 2012

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 coolie. The accident took place on 22.10.2008. The claimant was aged 57 years at the time of accident. A sum of Rs.75,000/- 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.25,681/- 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 shaft of her left femur. The Tribunal also found that the claimant sustained a lacerated wound on the right ear lobe, abrasion on the chin and a contusion on the right leg. The Tribunal further found that the claimant had undergone treatment for 15 days as inpatient in a hospital for the injuries sustained by her. The Tribunal noticed that the claimant had to go to the hospital for review of the treatment on six occasions after the discharge. It is seen that the claimant had produced medical bills amounting to Rs.5,681.30.

5. The Tribunal reckoned the monthly income of the claimant only at Rs.2,500/-. Since the accident took place in the year 2008, I am of the view that the monthly income of the claimant should have been reckoned at least at Rs.4,500/- for computing the compensation payable towards loss of earnings. The Tribunal had granted compensation for loss of earnings for a period of four months. The claimant is therefore, entitled to a further sum of Rs.8,000/- towards compensation

for loss of earnings. Though the claimant had undergone inpatient treatment for 15 days, only a sum of Rs.1,500/- is granted towards bystander's expenses. According to me, since the accident took place in the year 2008, the claimant is entitled to a further sum of Rs.2,250/- towards bystander's expenses. It is seen that no compensation is granted towards extra-nourishment. The claimant is entitled to a sum of Rs.2,000/- towards extra-nourishment as well. Towards transportation to the hospital, taking into account of the fact that the claimant had to go to the hospital for review after the discharge on six occasions, I am of the view that the claimant is entitled to a further sum of Rs.1,250/- towards compensation for transportation expenses. Towards pain and sufferings, it is seen that the Tribunal has granted only a sum of Rs.7,500/-. I am of the view that the claimant has to be granted a further sum of Rs.7,500/- towards compensation for pain and sufferings. Likewise, no compensation is seen granted towards loss of amenities and enjoyments in life. Having regard to the injuries sustained and the treatment undergone by the

claimant, I am of the view that she is entitled to a sum of Rs.7,500/- towards loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.28,500/- 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.28,500/- 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.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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