

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

MACA.NO. 903 OF 2013 ()

AGAINST THE AWARD IN OP(MV)NO.1637/2000 OF MOTOR ACCIDENTS CLAIMS
TRIBUNAL,PATHANAMTHITTA DATED 18-04-2012

APPELLANT(S) /PETITIONER:

BABU, AGED 45 YEARS,
D/O KUTTAPPEN, VIPIN NIVAS, AZHIYIDATHUCHIRA MURI
KAVUMBHAGOM VILLAGE, THIRUVALLA
PATHANAMTHITTA DISTRICT

BY ADV. SRI.K.N.RADHAKRISHNAN(THIRUVALLA)

RESPONDENT(S) :

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1. SADASIVAN NAIR,
THONDITHRA HOUSE, AZHIYIDATHUCHIRA MURI
KAVUMBHAGOM VILLAGE
THIRUVALLA, PATHANAMTHITTA DISTRICT-686519.
 2. P.S MANOHARAN,
PATHIRAPALLIL HOUSE, AZHIYIDATHUCHIRA MURI
KAVUMBHAGOM VILLAGE, THIRUVALLA
PATHANAMTHITTA DISTRICT, PIN-686519.
 3. THE BRANCH MANAGER,
UNITED INDIA INSURANCE COMPANY LTD
CHANGANACHERRY BRANCH, PIN-686101.

BY SRI.JOHN JOSEPH VETIKAD, S.C.
R3 BY ADV. SRI.V.JAYAPRADEEP

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 06-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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P.B. SURESH KUMAR, J.

M.A.C.A. No.903 of 2013

Dated this the 6th 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 to him.

2. The claimant was a driver by profession. He was aged 38 years at the time of accident. The accident took place on 08.10.1999. He claimed a sum of Rs.1,00,000/- by way of compensation in the proceedings. The Tribunal, on an evaluation of the materials on record, found that the claimant is entitled to only a sum of Rs.75,350/- by way of compensation and an award was passed accordingly for the said amount.

3. Heard the learned counsel for the claimant and the learned counsel for the insurer.

4. Exts.A5 and A8 are the discharge certificates issued to the claimant from Pushpagiri Hospital, Thiruvalla and Government Hospital, Changanasserry. It is seen that he was admitted and treated as inpatient in the hospital for the injuries sustained by him for a period of 24 days. The Tribunal found that the claimant sustained fracture of both bones of his forearm. Ext.A6 is the disability certificate issued from the General Hospital, Pathanamthitta. In Ext.A6, the disability of

the petitioner was assessed at 8%.

5. On an evaluation of the materials on record, I am of the view that the compensation granted by the Tribunal to the claimant for pain and sufferings and also for loss of amenities and enjoyments in life, do not seem to be just. The Tribunal had granted only a sum of Rs.7,500/- towards compensation for pain and sufferings. In the peculiar facts of this case, I am of the view that the claimant is entitled to a further sum of Rs.7,500/- towards compensation for pain and sufferings. Likewise, the Tribunal had granted only a sum of Rs.2,500/- towards compensation for loss of amenities and enjoyments in life. In the nature of the injuries sustained by the claimant, I am of the view that the claimant is entitled to a further sum of Rs.7,500/- towards compensation of loss of amenities and enjoyments in life as well. Thus, the claimant is entitled to a further sum of Rs.15,000/- by way of compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7.5% 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.15,000/- 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., 256 days as ordered in C.M.Application No.1126 of 2013.

Sd/-
P.B.SURESH KUMAR,
JUDGE

/ True Copy /

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P.A. To Judge