

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. 913 of 2013

**AGAINST THE AWARD DATED 01-11-2012 IN OPMV 1017/2007 OF MOTOR ACCIDENTS
CLAIMS TRIBUNAL, IRINJALAKUDA**

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APPELLANT(S)/PETITIONER:

**JOY,
S/O. THOMAN, NELLISSERY HOUSE,
KANAKAMALA DESOM AND P.O.,KODAKARA VILLAGE,
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.**

**BY ADVS.SRI.P.V.BABY
SRI.A.N.SANTHOSH**

RESPONDENT(S):

- 1. JUSTIN,
S/O. VAREED, VELLIYAN HOUSE, POTTA P.O.,
PIN-680 307.**
- 2. VAREED,
S/O. KOCHAPPAN, PAREKADAN HOUSE, PERAMBRA P.O.,
PIN-680 689.**
- 3. ORIENTAL INSURANCE CO. LTD.,
K.P.N. SHOPPINGH COMPLEX, SHORNUR ROAD,
THRISSUR-680 001.**

**BY SRI.GEORGE CHERIAN (THIRUVALLA)
R3 BY ADV. SMT.A.SREEKALA**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN
FINALLY HEARD ON 02-03-2015, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:**

msv/

P.B.SURESH KUMAR, J.

M.A.C.A.No.913 OF 2013

Dated this the 2nd day of March, 2015

JUDGMENT

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 manual labourer. The accident took place on 24.10.2006. The claimant was aged 34 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.49,813/- 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. Ext.A4 is the wound certificate and Ext.A5 is the discharge summary. It is seen that the claimant sustained various injuries including fracture of sacrum. He was treated as inpatient in a hospital for five days. Ext.A6 is the disability certificate issued by PW2, wherein the disability of the appellant was assessed at 8%.

5. Even though a sum of Rs.24,000/- was claimed towards loss of earnings, no compensation is seen granted on that head. Since the accident took place in the year 2006, in the absence of any evidence to show the income of the claimant, I am of the view that the monthly income of the claimant is to be reckoned at Rs.4,500/-. In the nature of injuries sustained by the claimant, he has to be granted compensation for loss of earnings for a period of two months. Thus, the claimant is entitled to a sum of Rs.9,000/- towards loss of earnings. A sum of Rs.28,800/- was granted by the Tribunal to the claimant towards compensation for continuing permanent disability, reckoning his monthly income at Rs.2,500/- and the disability at 8%, applying the multiplier '12'. In so far as compensation is granted for loss of earnings, reckoning his monthly income at Rs.4,500/-, the compensation for continuing permanent disability is also liable to be revised accordingly. The claimant is therefore, entitled to a further sum of Rs.23,040/-

(Rs.2000x12x12x8/100) towards compensation on that head. No compensation is seen granted by the Tribunal towards loss of amenities and enjoyments in life. On an evaluation of the nature of the injuries sustained by the claimant, I am of the view that the claimant has to be granted a sum of Rs.10,000/- towards compensation for loss of amenities and enjoyment in life as well. Thus, the claimant is entitled to a further sum of Rs.42,040/- towards 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.42,040/- 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.

Sd/-

P.B.SURESH KUMAR, JUDGE

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