

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

MACA.No.693 of 2011 ()

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AGAINST THE AWARD IN OPMV 373/2009 of M.A.C.T.,KOZHIKODE
DATED 20-05-2010
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APPELLANT/ PETITIONER :

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C.V.SURESH, AGED 37 YEARS,
S/O.VELAYUDHAN, CHIRAYIL HOUSE,
P.O PULLORAMPARA, THIRUVAMBADI
VIA KOZHIKODE.**

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

RESPONDENT(S) :

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- 1. BASHEER, S/O.MOOSA, AGE NOT KNOWN,
ARIMPRAMANNIL HOUSE, PO ANNAKKAMPOYIL,
THIRUVAMBADI, KOZHIKODE 673 603.**
 - 2. ANOOP,S/O.SUBRAMANIAN,AGED 25 YEARS,
ADUKKATTIL HOUSE, PO ANNAKKAMPOYIL,
KOZHIKODE 673 603.**
 - 3. THE NEW INDIA ASSURANCE CO.LTD.,
VARIKKODAN BUILDING, NILAMBUR ROAD,
PO MANJERI, MALAPPURAM 676 121.**

R3 BY ADV. SRI.P.K.BABU

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 05-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

VS

P.B.SURESH KUMAR, J

M.A.C.A.No.693 of 2011

Dated this the 5th day of February, 2015

JUDGMENT

The claimant in an application 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 is a painter. He was aged 37 years at the time of accident. The accident took place on 26.1.2008. He is sustained various injuries in the accident. He is claimed a sum of Rs.1,00,000/- by way of compensation in the application for compensation.

3. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.5,300/- and accordingly, an award was passed for the said amount. Since the vehicle involved in the accident was covered by a valid Insurance Policy at the time of the accident, the insurer of the vehicle was directed to satisfy the award.

4. Heard the learned Counsel for the

appellant/claimant and the learned Counsel for the third respondent/insurer.

5. Ext.A2 is the wound certificate produced by the claimant before the Tribunal. Ext.A2 indicates that the claimant sustained a lacerated wound 8x5 cm. over dorsum of left foot with loss of soft tissue, exposing tendon bleeding, abrasion over left elbow and forearm, abrasion over left leg etc. Even though he claimed a sum of Rs.30,000/- by way of compensation for loss of earnings, the Tribunal granted only a sum of Rs.1,000/- as compensation on that head. As indicated above, the claimant sustained lacerated wound 8x5 cm. over dorsum of left foot. It seems that the Tribunal assumed that the claimant would be able to work as painter with the said injuries immediately thereafter. According to me, the claimant is entitled to just compensation for loss of earnings, especially when he is a painter doing manual job. Since the accident took place on 26.1.2008, according to me, the claimant is entitled to compensation for loss of earnings at least for a period of two months

reckoning his monthly income as Rs.4,500/-. He is, therefore, entitled to a sum of Rs.8,000/- more towards compensation for loss of earnings. For the pain and sufferings, though the claimant raised a claim of Rs.30,000/-, the Tribunal granted only a sum of Rs.4,000/-. I feel that the just compensation payable to the claimant on this head would be Rs.10,000/-. The claimant is therefore entitled to a further sum of Rs.6,000/- on this head. No compensation is seen granted to the claimant towards loss of amenities and enjoyments in life. According to me, the claimant is entitled to a sum of Rs.10,000/- towards compensation for loss of amenities and enjoyments in life also. Thus, the claimant is entitled to a further sum of Rs.24,000/- by way of compensation.

In the result, the appeal is allowed in part and the award in favour of the claimant is modified granting him a further amount of Rs.24,000/- by way of compensation. Needless to say, the claimant is entitled to interest also for the enhanced compensation at the same rate at which the interest was granted by the Tribunal for

the compensation awarded.

Sd/-
P.B.SURESH KUMAR,
JUDGE

/TRUE COPY/

PA TO JUDGE

VS