

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/ 30TH MAGHA, 1936

MACA.No. 799 of 2011 ()

AGAINST THE AWARD IN OPMV 38/2006 of M.A.C.T., PERUMBAVOOR DATED 26-11-2010

APPELLANT/PETITIONER:-

THANKACHAN V. JOSEPH,
S/O. OUSEPH, VIP ROAD, NEAR PRIVATE BUS STAND
ANGAMALY.

BY ADVS.SRI.ANIL S.RAJ
SMT.K.N.RAJANI
SRI.G.ARUN GOPAN

RESPONDENTS/RESPONDENTS:-

1. SAFIYA, W/O. HUSSAIN,
KOORANKULAM HOUSE, NEAR ANP SCHOOL, KARIMBA.P.O
MANNARKKAD, PIN - 678 597.

2. ORIENTAL INSURANCE COMPANY LIMITED,
JAMEELA COMPLEX, NILAMBUR ROAD, MANJERI - 676 121.

3. RIYAS, S/O. HUSSAIN,
KOORANKULAM HOUSE, NEAR ANP SCHOOL, KARIMBA.P.O
PALAKKAD - 678 597.

R2 BY ADV. SRI.A.R.GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A.No.799 of 2011

Dated this the 19th 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 by the Tribunal.

2. The claimant was working as Manager of Kerala State Financial Enterprises at the time of accident. The accident took place on 6.10.2005. The claimant was aged 56 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.43,370/- 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 Tribunal found that the claimant had sustained injuries including comminuted fracture of the surgical neck of left humerus. The Tribunal noticed that the claimant was discharged from the hospital after the treatment with shoulder immobiliser. The Tribunal also noticed that the claimant was advised complete rest for six weeks from 10.10.2005.

5. A sum of Rs.19,631/- was granted by the Tribunal to the claimant by way of compensation towards loss of earnings for a period of 24 days, reckoning his monthly income at Rs.24,539/-. As noticed above, the accident took place in the year 2005. In the nature of the injuries sustained by the claimant, according to me, she is entitled to compensation for loss of earnings for a period of six weeks (42 days), reckoning her monthly income at Rs.24,539/-. The claimant is therefore, entitled to a further sum of Rs.14,723/- towards compensation on that head. A sum of Rs.10,000/- was granted by the Tribunal as compensation towards pain and sufferings. In the nature of the injuries sustained by the claimant and the treatment undergone by her, I am of the view that the claimant is entitled to a further sum of Rs.5,000/- towards compensation for pain and sufferings. Towards loss of amenities and

enjoyments in life, the Tribunal has granted only a sum of Rs.6,000/- as compensation. On an evaluation of the nature of the injuries sustained by the claimant, the claimant has to be granted a further sum of Rs.4,000/- towards loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.23,723/- 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.23,723/- 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 for the compensation granted.

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

Kvs/-

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PA TO JUDGE.