

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 1937

MACA.No. 807 of 2011 ()

OPMV 168/2007 of II ADDL. MACT, KOZHIKODE

APPELLANT/CLAIMANT:

T.VINOD ,S/O.DAMODARAN,AGED 32 YEARS,
THAIKANDIYIL HOUSE, KIZHAKKUMMURI PO, KOZHIKODE.

BY ADV. SMT.K.V.RESHMI

RESPONDENT(S)/RESPONDENTS :

1. SIVANANDAN,S/O.ACHUTHAN,ADIYOLIL HOUSE,
PO KAKKODI, KOZHIKODE DISTRICT 673 611.
2. SMJEESH,S/O.SIVADASAN.A,ADIYOLIL HOUSE,
PO KAKKODI, KOZHIKODE DISTRICT 673 611.
3. THE ORIENTAL INSURANCE CO.LTD.,
DIVISIONAL OFFICE, SEEMA BUILDING, GH ROAD
KOZHIKODE 673 001.

R3 BY ADV. SRI.VPK.PANICKER

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.807 of 2011

Dated 6th July, 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 mason. The accident took place on 18.8.2006. The claimant was aged 28 years at the time of accident. A sum of Rs.60,000/- 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.21,194/- 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. On the basis of the documents produced by the claimant, the Tribunal found that the claimant had sustained extra-dura hematoma at the occipital area. The Tribunal also found that the claimant sustained fracture of occipital bone. A lacerated wound on the right pinna was also sustained by him in the accident. From the hospital records, the Tribunal found that the claimant had undergone inpatient treatment for 13 days.

5. As noticed above, the claimant is a mason. Despite the injuries sustained on his head, the Tribunal granted only a sum of Rs.3000/- towards loss of earnings for a period of one month. As noticed above, the accident took place in the year 2006. In the nature of the injuries sustained by the claimant, according to me, the claimant is entitled to compensation for loss of earnings for a period of three months, reckoning his monthly income at Rs.5,000/-. Therefore, the claimant is entitled to a further sum of Rs.12,000/- towards loss of earnings. Despite the aforesaid injuries sustained by the claimant, it is seen that the Tribunal has granted only a sum of

Rs.500/- towards extra nourishment. According to me, the claimant is entitled to a further sum of Rs.2,500/- towards extra-nourishment. Towards bystander's expenses, the Tribunal awarded compensation only at the rate of Rs.100/- per day. Since the accident took place in the year 2006, according to me, the claimant has to be compensated for the bystander's expenses at the rate of Rs.250/- per day. The claimant is therefore, entitled to a further sum of Rs.1,950/- towards compensation on that head. Towards pain and sufferings, as against the claim of Rs.30,000/-, the Tribunal granted only a sum of Rs.8,000/- to the claimant. In the nature of the injuries sustained by the claimant, especially head injuries, I am of the view that the claimant should have been granted at least a sum of Rs.20,000/- towards pain and sufferings. The claimant is, therefore, entitled to a further sum of Rs.12,000/- on that head. Towards loss of amenities and enjoyments also, only a meagre sum of Rs.2,000/- is seen granted. According to me, the claimant is certainly entitled to some more amount on that head, which I fix at Rs.8,000/-. Thus, the claimant is entitled to

a further sum of Rs.36,450/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7% 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.36,450/- 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.

tgs

(true copy)