

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

MACA.No. 166 of 2014 ()

AGAINST THE AWARD IN OPMV 1548/2010 of M.A.C.T.,
KOZHIKODE, DATED 14-12-2012.

APPELLANT/PETITIONER:-

SASI @ SASEENDRAN AGED 38 YEARS
S/O.KELAPPAN, PURAYULLA PARAMBATH HOUSE
MULLAMBATH POST, NARIPPATTA VIA, KOZHIZKODE.

BY ADVS.SRI.R.SUDHISH
SMT.M.MANJU
SRI.K.R.RANJITH

RESPONDENTS/RESPONDENTS:-

1. RAJEESH
S/O.KRISHNAN, KALLERIPOYIL MAMBOYIL HOUSE, KAKKATTIL
VATAKARA, KZOHICODE-673 103.

2. THE ORIENTAL INSURANCE COMPANY LTD
SEEMA TOWER, G.H.ROAD, KOZHIZKODE-673 001.

R2 BY ADV. SMT.A.SREEKALA

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A.No.166 of 2014.

Dated this the 17th day of March, 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 coolie. He was aged 35 years at the time of accident. The accident took place on 21.1.2010. 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.51,373/- 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 claimant sustained a lacerated wound on his left hand, a type II open fracture of the second metacarpal of the left little finger, fracture of P1 of the fifth finger of the left hand and fracture of the fourth metacarpal of the left index finger. Ext.A2 is the wound certificate and Ext.A6 is the reference card issued to the claimant from the Medical College Hospital, Kozhikode. It is seen that the fracture of the fingers were fixed by K-wire. The Tribunal found that the claimant was admitted and treated as inpatient in the said hospital for the injuries sustained by him from 22.1.2010 to 4.2.2010. Ext.C1 is the disability certificate issued to the claimant by the Medical Board attached to the Medical College Hospital, Kozhikode. As per Ext.C1, the disability of the claimant was assessed at 4%.

5. The Tribunal had granted only a sum of Rs.7,000/- to the claimant towards loss of earnings for a period of two months, reckoning his monthly income of Rs.3,500/-. Since the accident took place in the year 2010, I am of the view that the monthly income of the claimant should have been reckoned as Rs.5,000/-. He is therefore, entitled to a further

sum of Rs.3,000/- towards compensation for loss of earnings. It is seen that a sum of Rs.25,200/- is granted to the claimant towards compensation for continuing the disability, reckoning the monthly income of the claimant at Rs.3,500/- and disability at 4%, applying the multiplier '15'. Since it is found that the monthly income of the claimant should have been reckoned at Rs.5,000/-, he is entitled to a further sum of Rs.10,800/- towards compensation for continuing permanent disability. Towards pain and sufferings, despite the injuries aforesaid, the Tribunal had granted only a sum of Rs.10,000/- by way of compensation. In the nature of injuries sustained by the claimant, I am of the view that the claimant is entitled to a further sum of Rs.5,000/- on this head. Towards loss of amenities and enjoyments in life, only a sum of Rs.5,000/- is seen granted. Having regard to the nature of the injuries sustained by the claimant and the treatment undergone by him, I am of the view that the claimant is entitled to a further sum of Rs.2,500/- towards compensation on that head. Though the claimant was admitted in the hospital for treatment as inpatient for 13 days, nothing is seen granted towards

bystander's expenses. The claimant is therefore, entitled to a sum of Rs.3,250/- towards bystander's expenses, at the rate of Rs.250/- per day. Thus, the claimant is entitled to a further sum of Rs.24,550/- 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.24,550/- 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.

Kvs/-

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PA TO JUDGE.