

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

MACA.No. 278 of 2014 ()

OPMV 1458/2005 of MACT, IRINJALAKUDA

APPELLANT(S):

JOSHY, S/O.DEVASSY, AGED 33, CHIRAYATH HOUSE,
PINDANY DESOM, P.O.PUTHENCHIRA, MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.

BY ADVS.DR.V.N.SANKARJEE

P.J JOBI

JISHA JOBI

SRI.S.SIDHARDHAN

SRI.V.N.MADHUSUDANAN

SMT.C.K.LEKHAMMA

SMT.R.UDAYA JYOTHI

RESPONDENT(S):

1. RAJENDRAN, S/O.MADHAVAN NAIR, AGED 53, POTTAYIL HOUSE,
KANDARAMTHARA DESOM, PORATHISSERY VILLAGE & POST,
THRISSUR DISTRICT.
2. SIVA RAMAN, S/O.JANAKI, VENNENGOTTU HOUSE, P.O.PERUVALOOR,
THRISSUR 680 545.
3. THE NATIONAL INSURANCE CO. LTD., REP. BY MANAGER,
P.B.NO.25, MUNICIPAL SHOPPING COMPLEX, MAIN ROAD,
NORTH PARA VOOR - 683 503.

R3 BY ADV. SRI.K.B.RAMANAND

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 19-01-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.278 of 2014

Dated 19th January, 2015.

J U D G M E N T

The claimant in a proceeding for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the quantum of compensation granted to him.

2. The accident took place on 21.5.2005. The claimant was a person working at Sultanate of Oman at the time of the accident. According to him, he suffered serious injuries in the accident including a punctured wound in the anterior aspect of his knee. It is stated that the claimant was admitted and treated in a hospital as inpatient for a period of four days for the injuries sustained by him in the accident. He claimed a sum of Rs.1,00,000/- by way of compensation in the proceeding.

3. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled only to a sum of Rs.6,723/- by way of compensation and accordingly, an award for the said amount was passed. As the vehicle involved in the accident was covered by a valid insurance policy issued by the

third respondent at the time of accident, the third respondent was directed to satisfy the award. As stated above, the claimant has come up in this appeal aggrieved by the said award.

4. Heard the learned counsel for the appellant/claimant as also the learned counsel for the third respondent/insurer.

5. The learned counsel for the appellant pointed out that even though a sum of Rs.30,000/- was claimed by way of compensation for the loss of earnings of the claimant, no compensation was awarded by the Tribunal on that head. Likewise, it was also pointed out that only a sum of Rs.3,000/- was granted by the Tribunal towards compensation for the pain and sufferings undergone by the claimant. The learned counsel has further pointed out that no compensation was granted for the loss of amenities and enjoyment in life.

6. Per contra, the learned counsel for the third respondent pointed out that the claimant who is working abroad has sustained injuries in the accident while in India on leave and as such, the Tribunal cannot be found fault with for having not granted any compensation for loss of earnings. He

has also pointed out that the compensation granted to the claimant on other heads is fair and no interference is called for in the award impugned in the appeal.

7. The impugned award indicates that the claimant had sustained multiple abrasion on the outer aspects of both knee joints with bilateral contusion and a punctured wound in the anterior aspect of his knee. The award also indicates that the claimant was admitted and treated in a hospital for four days for the injuries sustained in the accident. The claimant had produced medical bills of Rs.2,673/- in support of his claim. The compensation payable to him has to be assessed on the aforesaid materials. As rightly pointed out by the learned counsel for the third respondent, the claimant being a person employed abroad and sustained injuries in India while on leave, the Tribunal cannot be found fault with for having not granted any compensation for loss of earnings. However, having regard to the injuries sustained by the claimant and the treatment undergone by him as inpatient in a hospital for four days, I feel that the claimant is entitled at least a sum of Rs.10,000/- by way of compensation for the pain and sufferings. The Tribunal had granted only a sum of Rs.3,000/- on that head. The

claimant is, therefore, entitled to a further sum of Rs.7,000/- as compensation for the pain and sufferings. Likewise, as noticed above, the Tribunal has not granted any compensation to the claimant for the loss of amenities and enjoyment in life. In the peculiar facts of this case, since the claimant sustained injuries in an accident while he was in India on leave, I feel that he is entitled to some amount by way of compensation for loss of amenities and enjoyment in life also which I fix at Rs.5,000/-. It is seen that only a sum of Rs.400/- is granted by the Tribunal to the claimant by way of compensation towards bystander's expenses. It is not disputed that the claimant was admitted and treated in a hospital as an inpatient for about four days. According to me, the claimant is entitled to some more amount towards bystander's expenses and the additional amount payable to the claimant is fixed at Rs.1,000/-.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal to the appellant is modified, granting a sum of Rs.13,000/- more 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 granted by the Tribunal for the

compensation awarded, except for the period of delay in filing the appeal as ordered in CM.Appl.No.316 of 2014.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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(true copy)