

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

MACA.No. 1035 of 2011 ()

AGAINST THE AWARD IN OPMV 184/2010 of M.A.C.T.,
KOZHIKODE, DATED 05-06-2010

APPELLANT/PETITIONER IN OP (MV) :-

VIJAYAN NAIR, S/O.ACHUTHAN NAIR,
KOZHIKALATHIL HOUSE, KONOTTU P.O.,
VIA.KUNNAMANGALAM,
KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS/RESPONDENTS IN OP (MV) :-

1. B.G.SOMASEKHARAN,
S/O.GURUNJUDEPPA, 56, RAMAIYANGAR ROAD
BANGALORE-56004.

2. ICICI LOMBARD GENERAL INSURANCE
COMPANY LTD., 6/255/C, 2ND FLOOR
CITY PLAZA BUILDING, Y.M.C.A. CROSS ROAD,
KOZHIKODE.

R2 BY ADV. SRI.K.B.RAMANAND
R2 BY ADV. SRI.R.AJITH KUMAR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A. No.1035 of 2011.

Dated this the 10th day of February, 2015.

J U D G M E N T

The claimant in an original 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 driver in the service of the Kerala State Road Transport Corporation. The accident took place on 24.12.2008. The claimant was aged 47 years at the time of accident. A sum of Rs.1,00,000/- was claimed in the original petition by way of compensation for the injuries sustained by the claimant. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.25,958/- by way of compensation 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. Ext.A2 is the wound certificate of the claimant. Ext.A4 is the discharge book issued to the claimant from the Hospital. The Tribunal noticed that the claimant sustained depressed fracture frontal bone, subarachnoid hemorrhage, lacerated wound over scalp and right maxillary area etc. The Tribunal also noticed that the claimant was treated as inpatient in a hospital for 14 days for the injuries sustained by him.

5. A sum of Rs.4,000/- was granted by the Tribunal to the claimant by way of compensation towards loss of earnings for a period of one month, reckoning his monthly income at Rs.4,000/-. As noticed above, the accident took place in the year 2008. In the nature of the injuries sustained by the claimant, according to me, he is entitled to compensation for loss of earnings for a period of two months reckoning his monthly income at Rs.5,000/-. If the compensation for loss of earnings is computed for a period of two months, reckoning the monthly income at Rs.6,000/-, the claimant is entitled to a further sum of Rs.4,000/- towards compensation on that head. A sum of Rs.8,000/- was granted

by the Tribunal as compensation towards pain and sufferings. In the nature of 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.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.1,000/- as compensation. On an evaluation of the facts and circumstances of this case, I am of the view that the claimant has to be granted a further sum of Rs.9,000/- towards compensation for loss of amenities and enjoyments in life. Towards extra-nourishment, no compensation is seen granted by the Tribunal. According to me, the claimant is entitled to a sum of Rs.1,500/- towards compensation for extra-nourishment. Towards bystanders expenses, the Tribunal has granted only a sum of Rs.1,200/-. Since the accident took place in the year 2008, according to me, the claimant is entitled to a further sum of Rs.2,300/- towards compensation for bystanders expenses. Thus, the claimant is entitled to a further sum of Rs.23,800/- 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.23,800/- 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, except for the period of delay in filing the appeal, viz., 262 days as ordered in C.M.Application No.1610 of 2011.

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

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PA TO JUDGE.