

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

MACA.No. 1627 of 2015 ()

OPMV. NO.1080/2007 OF PRL. MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE.
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APPELLANT/PETITIONER:

**ABDUL VAHAB, S/O.ABDURAHIMAN,
AGED 40 YEARS, KOODATHINGAL HOUSE,
THIRUTHIYAD, VAZHAYOOR (PO),
RAMANATTUKARA VIA, MALAPPURAM.**

BY ADV. SMT.K.V.RESHMI.

RESPONDENT/2ND RESPONDENT:

**THE ORIENTAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE, SEEMA BUILDING,
ARAYEDATHUPALAM, G.H. ROAD, KOZHIKODE- 673 001,
REPRESENTED BY ITS MANAGER.**

**BY ADVS. SRI.K.KESAVANKUTTY,
SMT.K.S.SANTHI.**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 09-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.1627 of 2015

Dated this the 9th day of October, 2015

JUDGMENT

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. The accident took place on 13.2.2007. The claimant was aged 32 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.26,214/- and accordingly, an award was passed for the said amount. As

the vehicle involved in the accident was covered by a valid insurance policy, the insurer of the vehicle 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 various injuries in the accident including fracture of the left radius, comminuted fracture of P2 metacarpal (R), multiple injuries on face, tenderness on cervical spine, etc. He was admitted and treated in the hospital for a period of 14 days from 13.2.2007 to 26.2.2007. The Tribunal found that the claimant had undergone a surgery in the course of his treatment on 13.2.2007. The compensation payable to the claimant has to be assessed in the light of the aforesaid facts.

5. No compensation was granted by the Tribunal to the claimant towards extra nourishment. Having regard to the nature of the injury sustained by the claimant and the treatment undergone by him, I am of the view that the claimant is entitled to a sum of Rs.2,500/- towards extra nourishment. Even though the claimant had undergone inpatient treatment in the hospital for 14 days, only a sum of Rs.1,000/- is seen awarded towards bystander's expenses. Since the accident took place in the year 2007, according to me, the bystander's expenses should have been granted to the claimant at the rate of Rs.250/- per day. The claimant is, therefore, entitled to a further sum of Rs.2,500/- towards compensation for bystander's expenses. Towards compensation for pain and sufferings, despite the various injuries sustained by the claimant, including the injuries referred to above, only a sum of Rs.17,000/- has

been granted by the Tribunal. Since the accident took place in the year 2007, I am of the view that the claimant should have been granted at least a sum of Rs.25,000/- towards compensation for pain and sufferings. The claimant is, therefore, entitled to a further sum of Rs.8,000/- on that head. As noticed above, the claimant had undergone inpatient treatment in the hospital for 14 days. He had also undergone a surgery in the course of his treatment. It is thus evident that the claimant could not have worked as a coolie at least for a period of two months. He is, therefore, entitled to compensation for loss of earnings for the said period, reckoning his monthly income at Rs.5,000/-. It is seen that the Tribunal has granted only a sum of Rs.2,000/- on that head. The claimant is, therefore, entitled to a further sum of Rs.8,000/- towards loss of earnings. True, in the absence of any disability certificate, the

claimant is not entitled to compensation for loss of earning power. But, the claimant is certainly entitled to some amount by way of compensation towards loss of amenities and enjoyments in life. Only a sum of Rs.1,000/- is seen granted to the claimant towards loss of amenities. According to me, in the absence of any compensation for continuing permanent disability, the claimant is entitled to a further sum of Rs.14,000/- on that head. Thus, the claimant is entitled to a further sum of Rs.35,000/- 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.35,000/- 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, except for the period of delay in filing the appeal, viz., 1975 days, as ordered in C.M.Application No.1789 of 2015.

P.B.SURESH KUMAR, JUDGE.

smm