

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

MACA.No. 1109 of 2011 ()

AGAINST THE AWARD IN OPMV 1823/2006 of II ADDL. MACT, KOZHIKODE,
DATED 20-10-2010

APPELLANT:-

C.P.MUHAMMED, S/O.ABDUL KHADER, AGED 47
YEARS, PUTHIYAPARAMBATH HOUSE, PO PULIKKAL
MALAPPURAM DISTRICT (NOW R/AT KUNNATHUPARAMBA
KALLAI PO, CALICUT).

BY ADVS.SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN
SMT.DHANYA S.DHARAN

RESPONDENTS:-

1. SASIDHARAN.T, S/O.SANKARAN WARIYAR,
PRIYAM, NEAR SUGAR CANE BREEDING CENTRE, EAST TALAP
KANNUR 670 001, (OWNER KL13 M-1461, LORRY).

2. MICHEL, S/O.JOSEPH, AGED 57 YEARS,
IRUVELI HOUSE, PALLIMUKKU, PO PALLIMOOLA
KANNUR, 670 001 (DRIVER KL13 M-1461 LORRY).

3. JABIR, S/O.VERAN HAJI, MAMMILIPAT HOUSE,
PULIKKAL PO, MALAPPURAM DISTRICT 673 637 (OWNER
KL 10 M 1467 MOTOR CYCLE).

4. MUJEEB RAHMAN, S/O.KOYAMNU, AGED 41 YEARS
PALANKULAYENA HOUSE, PO PULIKKAL, MALAPPURAM
DISTRICT 673 637, (DRIVER OF KL 10 M/1467 MOTOR
CYCLE).

5. THE ORIENTAL INSURANCE CO.LTD.,
RAS BUILDING, SOUTH BAZAR, MKANNUR 670 001.

R5 BY ADV. SRI.P.JAYASANKAR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

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M.A.C.A.No.1109 of 2011.
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Dated this the 27th day of January, 2015.

J U D G M E N T

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

2. The accident took place on 29.11.2004. The claimant is a coolie. He was aged 42 years at the time of accident. According to him, he was earning a monthly income of Rs.6,000/- from his avocation. It is stated that both bones of his left leg were fractured in the accident. According to him, he was admitted and treated in a hospital for about 11 days for the injuries sustained by him in the accident. He claimed a sum of Rs.1,00,000/- by way of compensation.

3. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled only

to a sum of Rs.19,300/- 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.

4. Heard the learned counsel for the appellant/claimant and the learned counsel for the fifth respondent/insurer.

5. The fact that the claimant had sustained fracture of both bones of his left leg in the accident is not disputed. Likewise, the fact that the claimant had undergone treatment as an in-patient for 11 days at the Medical College Hospital, Kozhikode in connection with the injuries sustained by him in the accident is also not disputed. Ext.A4 is the treatment book issued to the claimant from the Medical College Hospital, Kozhikode. It is seen that the claimant had undergone a surgical procedure also in the course of his treatment. The Tribunal has granted only a sum of Rs.5,000/- to the claimant towards loss of earnings, reckoning the monthly income of

the claimant at Rs.2,500/-. The claimant being a coolie, the fracture of both bones of his leg would certainly cause some functional disability to him. On an overall consideration of materials, I feel that the claimant is entitled to be compensated for the loss of earnings at least for a period of four months. The claimant is, therefore, entitled to a further sum of Rs.5,000/- towards loss of earnings. Coming to the compensation for the pain and sufferings, the Tribunal has granted only a sum of Rs.10,000/- to the claimant. In 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.5,000/- by way of compensation for the pain and sufferings. The claim in the application for loss of amenities and enjoyment in life was Rs.20,000/-. The Tribunal had granted only a sum of Rs.2,000/- on that head. According to me, the claimant is entitled to a further sum of Rs.13,000/- as compensation for the loss of amenities and enjoyment in life.

6. It is seen that the Tribunal had awarded

interest for the compensation only at the rate of 7% per annum, which according to me is grossly inadequate. The interest granted by the Tribunal for the compensation awarded is also, in the circumstances, liable to be modified to 9% from 7%.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal to the claimant is modified, granting a sum of Rs.23,000/- more by way of compensation. Needless to say, the claimant will be entitled to interest at 9% per annum for the entire amount of compensation granted including the enhanced compensation granted as per this judgment.

Sd/-
P.B.SURESH KUMAR,
(Judge)

Kvs/-

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PA TO JUDGE.