

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

MACA.No. 1298 of 2011 ()

OPMV 1072/2004 of ADDL. DIST.JUDGE/ADDL. MACT, PATHANAMTHITTA.

APPELLANT(S)/PETITIONER:

AMBIL.M.K.
MANNUMKAL HOUSE, MADAMON.P.O, PERUNADU VILLAGE
RANNI TALUK.

BY ADVS.SRI.T.K.KOSHY
SMT.V.V.RISANI

RESPONDENT(S)/RESPONDENTS 1 - 3:

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1. BINOJY THOMAS
VALIYAKALYIL HOUSE, SEETHAKKUZHY, CHITTAR - 689 663.
 2. P.V. GEORGE, PARACKAL HOUSE,
SEETHATHODE.P.O, CHITTAR - 689 667.
 3. BRANCH MANAGER,
NATIONAL INSURANCE CO. LTD., THIRUVALLA - 689 112.

R3 BY ADV. SMT.RAJI T.BHASKAR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 22-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.1298 of 2011

Dated 22nd May, 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 an employee of the Kerala State Electricity Board. The accident took place on 9.7.2004. The claimant was aged 33 years at the time of accident. A sum of Rs.80,500/- 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.31,100/- 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 various injuries in the accident including fracture of the lower end of her left femur. Ext.A8 is the wound certificate produced by the claimant. Ext.A10 is the leave certificate of the claimant, wherein it is certified that the claimant had availed commuted leave for the period from 9.7.2004 to 27.8.2004. Ext.A9 is the disability certificate issued to the claimant by the competent authority. In Ext.A9, the Medical Board attached to the General Hospital, Pathanamthitta had certified the permanent disability of the claimant at 10%.

5. The Tribunal granted only a sum of Rs.6,000/- to the claimant towards loss of earnings. It is evident from Ext.A10 leave certificate that the claimant could not attend the office for about two months after the accident. In this appeal, the claimant had produced a certificate indicating her salary for the month of July, 2004. The certificate would show that the claimant had drawn a basic salary of Rs.11,415/- for the month of July, 2004. In the light of the said certificate produced before

this Court, I deem it appropriate to grant a further sum of Rs.12,000/- towards compensation for loss of earnings. No compensation is seen granted by the Tribunal towards continuing permanent disability for the reason that the claimant being an employee of the Kerala State Electricity Board, there was no loss of earnings for her. True, the loss of earning capacity of the claimant is not affected on account of the disability as she was a permanent employee of the Kerala State Electricity Board at the time of accident. But, the fact remains that she sustained permanent disability in the accident and she is entitled to compensation for continuing that disability. It is settled that for continuing disability, the claimant is entitled to compensation, reckoning a notional income. Having regard to the facts and circumstances of this case, according to me, the notional income of the claimant for the purpose of determining the compensation for continuing permanent disability can be reckoned at Rs.3,000/- per month. She is, therefore, entitled to compensation for continuing permanent disability reckoning the disability at 10% and applying the multiplier '16'. The claimant

is therefore, entitled to a sum of Rs.57,600/- on this head. Thus, the claimant is entitled to a further sum of Rs.69,600/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7.5% 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.

7. In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.69,600/- 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.

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(true copy)