

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

MACA.No. 1300 of 2011

**OPMV 1967/2006OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, ERNAKULAM
ERNAKULAM DATED 25-11-2010**
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APPELLANT(S)/PETITIONER:

**T.C.JOSEPH, S/O.CHACKO,
JOY'S ELECTRICAL & CONTRACTORS, MARKET ROAD, KOCHI.**

**BY ADVS.SRI.C.ARUN PRASANTH
SRI.A.S.BRIJESH
SMT.ROOPA RAMACHANDRAN**

RESPONDENT(S)/RESPONDENTS:

- 1. T.B.MOHANDAS, S/O.BHASKARAN,
THURTHIKKATTU HOUSE, CHORAMANGALAM, MUHAMMA P.O.,
CHERTHALA - 688 530.**
- 2. NATIONAL INSURANCE COMPANY LIMITED,
T.P.CLAM CELL, 2ND FLOOR, AJAY VIHAR,
M.G.ROAD, KOCHI-682 016.**

R2 BY ADV. SMT.SARAH SALVY

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 21-05-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

msv/

P.B.SURESH KUMAR, J.

M.A.C.A.No.1300 of 2011

Dated this the 21st day of May, 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 was riding a motor cycle when he met with the accident. The accident took place on 28-2-2006. The claimant was aged 55 years at the time of accident. A sum of Rs.41,000/- was the claim raised in the petition. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.18,520/- 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,

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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 pedicle of C2 vertebra. Ext.A6 is the wound certificate and Ext.A7 is the discharge summary issued to the claimant from the hospital where he was admitted and treated for the injuries sustained in the accident. It is stated that the claimant was undergoing inpatient treatment in the hospital for three days.

5. The Tribunal granted, among others, a sum of Rs.3,500/- towards compensation for loss of earnings, a sum of Rs.1,000/- towards compensation for extra nourishment, a sum of Rs.5,420/- towards medical expenses, a sum of Rs.5,000/- towards compensation for pain and sufferings and a sum of Rs.2,000/- towards compensation for loss of amenities and enjoyments in life. The claimant is aggrieved by the said decision of the

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Tribunal and hence this appeal.

6. Ext.A6 is the wound certificate and Ext.A8 is the report of the CT scan done on the claimant. In Ext.A8 report, it is stated that the claimant had sustained fracture of the pedicle of C2 vertebra. The Tribunal has not accepted Ext.A8 report to hold that the claimant had sustained fracture of the pedicle of C2 vertebra for the simple reason that there is a scoring in Ext.A8 report over the place where the said injury is recorded. A perusal of the copy of Ext.A8 report which is made available to me indicates that the scoring over Ext.A8 report found by the Tribunal is only a highlighting made by somebody who had dealt with the said document. As such, I am of the view that the Tribunal should have determined the compensation due to the claimant on the basis that the claimant had sustained the said injury as well.

7. Coming to the quantum, only a sum of Rs.3,500/- is seen granted to the claimant towards loss of earnings. The accident took place in the year 2006. The

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claimant being an electrician, according to me, his income should have reckoned by the Tribunal at least at the rate of Rs.6,000/-per month. The claimant is therefore, entitled to a further sum of Rs.2,500/- on that head. Towards compensation for pain and sufferings, only a sum of Rs.5,000/- is seen awarded against the claim of Rs.30,000/-. In the nature of the injuries sustained by the claimant, I am of the view that the claimant is entitled to a minimum of Rs.15,000/- towards compensation on that head. The claimant is therefore, entitled to a further sum of Rs.10,000/- towards compensation for pain and sufferings. Towards compensation for loss of amenities and enjoyments in life, only a sum of Rs.2,000/- is seen granted. The said compensation also, according to me, is highly inadequate in a case like this. The compensation due to the claimant towards loss of amenities and enjoyments in life is therefore refixed at Rs.10,000/-. The claimant is therefore entitled to a further sum of Rs.8,000/- on that head. Thus, the claimant is entitled to a further sum of Rs.20,500/- towards

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compensation.

8. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 8% 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.20,500/- 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., 133 days as ordered in C.M.Application No.1967 of 2011.

P.B.SURESH KUMAR, JUDGE.

smm