

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

MACA.No. 1322 of 2011 ()

OPMV 2005/04 OF MACT, THRISSUR

APPELLANT(S)/PETITIONER:

JOYCE JOSEPH, W/O. JOSEPH,
CHIRAYATH HOUSE, KURIACHIRA P.O, TRISSUR.

BY ADV. SRI.T.C.SURESH MENON

RESPONDENT(S)/RESPONDENTS:

1. K.K.SHAJI, KARIPAYIL HOUSE,
CHRISTOPHER NAGAR, ANCHERY P.O., THRISSUR 680 006.
2. A.J.XAVIER, ALAPPAT HOUSE,
MARIYAPURAM, ANCHERY P.O., THIRUSSUR DISTRICT 680 006.
3. UNITED INDIA INSURANCE CO.LTD
PARK HOUSE, ROUND NORTH, THRISSUR 680 001.

R-3 BY ADV. SRI.P.JAYASANKAR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.1322 of 2011

Dated 12th 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 tailor. The accident took place on 26.5.2004. The claimant was aged 44 years at the time of accident. A sum of Rs.75,000/- 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.31,600/- 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.A5 is the wound certificate of the claimant.

Ext.A6 is the discharge summary issued to the claimant from Thrissur Heart Hospital. The tribunal noticed that she sustained lacerated wounds over her scalp. The Tribunal also noticed that the claimant sustained diffused cerebral edema and fracture of lateral wall of left orbit. Ext.A10 is the certificate issued by an Orthopedic Consultant and Civil Surgeon to the effect that the claimant is suffering from 6% disability due to persistent post traumatic head ache, instability to recollect the events, vertigo and vomiting.

5. A sum of Rs.5,000/- was granted by the Tribunal to the claimant by way of compensation towards loss of earnings for a period of two months, reckoning her monthly income at Rs.2,500/-. As noticed above, the accident took place in the year 2004. In the nature of the injuries sustained by the claimant, according to me, she is entitled to compensation for loss of earnings for a period of two months, reckoning her monthly income at Rs.3,200/-. If the compensation for loss of earnings is computed for a period of two months, reckoning the monthly income at Rs.3,200/-, the claimant is entitled to a further sum of Rs.1,400/- towards compensation on that head. Towards loss of amenities and enjoyments in life, the Tribunal has granted only a sum of Rs.6,000/- towards compensation. On an evaluation of the nature of the injuries sustained by the

claimant, the claimant has to be granted a further sum of Rs.4,000/- towards loss of amenities and enjoyments in life. Despite Ext.A10 certificate, the Tribunal has not granted any compensation for continuing the disability. According to me, in the nature of the injuries sustained by the claimant, she is entitled to compensation for continuing disability reckoning the disability at 4%, applying the multiplier of '14'. If the compensation payable is worked out in this fashion, the claimant will be entitled to a sum of Rs.21,504/- towards compensation. Thus the claimant is entitled to a further sum of Rs.26,904/- 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.26,904/- 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.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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(true copy)