

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 1937

MACA.No. 644 of 2014 ()

OPMV 1089/2005 of MACT, THRISSUR.

APPELLANT(S)/PETITIONER:

MOHAMMED, AGED 69 YEARS
S/O.VELAYUDHAN,
THEVALAKKATTIL MALI HOUSE, AMBALAVAYAL VILLAGE
NEAR KUPPA MURI PALAM
NOW RESIDING AT CHIRAKKATHODIYIL HOUSE
OOTTUPURAM KUNNU, PINANGODE P.O
KALPATTIA VIA. WAYANAD 673 121.

BY ADVS.SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH

RESPONDENT(S)/RESPONDENTS:

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1. RADHAKRISHNAN
S/O.CHANDRANANDAN, KANJIRAPPARAMBIL HOUSE
EDAKKAZHIYOOR DESAM, PUNNAYOOR VILLAGE
EDAKKAZHIYOOR P.O. THRISSUR – 680 515.
 2. K.V. VELAYUDHAN
KANJIRAPPARAMBIL HOUSE, EDAKKAZHIYOOR DESAM
PUNNAYOOR VILLAGE
EDAKKAZHIYOOR P.O. THRISSUR – 680 515. (DELETED)
 3. NATIONAL INSURANCE COMPANY LTD.
REPRESENTED BY ITS DIVISIONAL MANAGER
DIVISIONAL OFFICE, THRISSUR 680 515.
 4. K.V. CHANDRAN
S/O.VELAYUDHAN, KANJIRAPPARAMBIL HOUSE
EDAKKAZHIYOOR DESAM, PUNNAYOOR VILLAGE
EDAKKAZHIYOOR P.O. THRISSUR – 680 515. (DELETED)
(RESPONDENT NOS.2 AND 4 ARE DELETED FROM THE PARTY ARRAY AT THE RISK
OF THE APPELLANT AS PER ORDER DATED 30.6.2015 IN I.A.NO.2024/15)

R3 BY ADV. SRI.P.G.GANAPPAN

R3 BY ADV.SRI.M.A.GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 06-07-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.644 of 2014

Dated 6th July, 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 was a cook. The accident took place on 12.9.2004. The claimant was aged 60 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.57,300/- 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 suffered comminuted fracture of both tibia and fibula of his right leg. The Tribunal found that the claimant was treated as inpatient in a hospital for 69 days. Having regard to the injuries sustained by the claimant as also the treatment undergone by him, I am of the view that just compensation has not been granted to the claimant for pain and sufferings, loss of amenities and enjoyments in life and for extra nourishment. According to me, the claimant has to be adequately compensated on those heads.

5. Despite the fact that the claimant had suffered multiple fracture of both bones of his right leg and despite the fact that he had undergone inpatient treatment in a hospital for 69 days, only a sum of Rs.15,000/- is seen granted towards pain and sufferings. On an evaluation of the materials on record, I am of the view that the claimant has to be granted a further sum of Rs.10,000/- towards pain and sufferings. Though a sum of Rs.35,000/- was claimed towards loss of amenities and enjoyments in life, only a sum of Rs.12,000/- is seen awarded

on that head. Having regard to the facts and circumstances of this case, I am of the view that the claimant is entitled to a further sum of Rs.3,000/- on that head also. No compensation has been awarded towards extra nourishment. In view of the prolonged treatment undergone by the claimant, he has to be granted a sum of Rs.2,500/- towards extra nourishment also. Thus, the claimant is entitled to a further sum of Rs.15,500/- towards compensation.

6. 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.15,500/- 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., 441 days as ordered in C.M.Application No.755 of 2014.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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