IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

MACA.No. 1397 of 2011 ( )

OPMV 1135/2002 of MACT, IRINJALAKUDA

APPELLANT/PETITIONER :

SURYAPRAKASHAN, CLERK,
S/O.NARAYANAN NAIR, MANIVELIL HOUSE, MELADOOR DESOM
ALATHOOR VILLAGE, MUKUNDAPURAM TALUK.

BY ADVS.SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENT(S)/RESPONDENTS :

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1. RAJAPPAN, S/O. C.R.RAMAN NAIR
KANAKKASSERY HOUSE, MELADOOR DESOM, ALATHUR VILLAGE
MUKUNDAPURAM TALUK 680 741.

2. SREEKUMAR, S/O.RAJAPPAN, KANAKKASSERY
HOUSE, MELADOOR DESOM ALATHUR VILLAGE
MUKUNDAPURAM TALUK 680 741.

3. THE BRANCH MANAGER
UNITED INDIA INSURANCE CO LTD., BRANCH OFFICE
CHALAKUDY 680 307.

R3 BY ADV. SRI.P.JACOB MATHEW
R3 BY SRI.JOHN JOSEPH VETTIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 20-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.1397 of 2011

Dated 20th January, 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 to him by the Tribunal.

2. The accident took place on 28.4.2001. The claimant was aged 26 years at the time of accident. He was an employee in a private firm. He sustained serious injuries in the accident including fracture of both bones of his right leg. He was admitted and treated as inpatient in a hospital for 14 days. A sum of Rs.1,00,000/- was claimed, in the circumstance, by way of compensation in the petition referred to above.

3. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled only a sum of Rs.79,504/- 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 issued by the third respondent at the time of accident, the third respondent was directed to satisfy the award. The amount awarded by the

Tribunal included a sum of Rs.24,184/- towards reimbursement of the medical expenses incurred.

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

5. The learned counsel for the appellant pointed out that in the light of the injuries sustained by the appellant and the treatment undergone by him, the compensation granted for the pain and sufferings as also the compensation granted for the loss of amenities and enjoyment in life are too meagre. He also pointed out that the claimant was drawing a monthly salary of Rs.5,000/- and the Tribunal had reckoned his monthly income only at Rs.2,000/-.

6. Per contra, the learned counsel for the third respondent contended that the total claim of compensation was only Rs.1,00,000/- and out of the said amount, the Tribunal has granted a fair amount of Rs.79,504/- by way of compensation and the decision of the Tribunal does not, therefore, call for any interference.

7. As noticed above, the claimant suffered fracture of both bones of his right leg in the accident. It is not disputed that he was admitted and treated in a hospital for the injuries sustained in the accident for 14 days. He had produced bills

and vouchers indicating medical expenses to the tune of Rs.24,184/-. PW1, a retired doctor in the Government service assessed the permanent disability of the claimant at 13%. In the said circumstances, according to me, the claimant is entitled at least to a sum of Rs.15,000/- by way of compensation for the loss of amenities and enjoyments in life. The Tribunal had granted only a sum of Rs.4,000/- on that head. The claimant is, therefore, entitled to a further sum of Rs.11,000/- towards compensation for loss of amenities and enjoyment in life. Coming to the aspect of loss of earnings, as against the claim of Rs.20,000/-, the Tribunal had granted only a sum of Rs.8,000/- by way of compensation. The said amount of Rs.8,000/- was granted by the Tribunal towards the loss of earnings of the claimant for a period of four months, reckoning the monthly earning of the claimant at Rs.2,000/-. The Apex Court in **Ramachandrappa v. Manager, Royal Sundaram Alliance Ins. Co. Ltd.,** [2011 ACJ 2436] and in **Sanjay Kumar V. Ashok Kumar and another** [2014 ACJ 653], held that the monthly income of persons working in the unorganised sectors shall be taken at Rs.4,500/- for the purpose of determining the compensation payable to them in motor accident claim cases. In so far as the accident in the instant case took place on 28.4.2001, taking note of the decisions of the Apex Court referred to above, I fix the monthly income of the claimant at Rs.4,000/-. The claimant is, therefore, entitled to a further sum of Rs.8,000/- by way of compensation for the loss of earnings.

8. It is seen that the Tribunal had awarded interest for the compensation only at the rate of 6% 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 6%.

9. 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.19,000/- 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 compensation granted as per this judgment.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)