

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

MACA.No. 1873 of 2013 ()

OPMV 2105/2007 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM

APPELLANT/PETITIONER :

**P.J.JOSEPH, AGED 76 YEARS
S/O.LATE JOSEPH, PALIATHARA HOUSE, VARIATH ROAD,
VADUTHALA, KOCHI-682 023, ERNAKULAM DISTRICT.**

BY ADV. SRI.ALEX THANNIPPILLY

RESPONDENTS/RESPONDENTS :

- 1. VIJU, S/O.VELAYUDHAN,
VETTIKARAN PARAMBIL, THGUNDATHIPARAMBU4
VARAPUZHA, ERNAKULAM DISTRICT-693 517.**
- 2. UNITED INDIA INSURANCE CO. LTD.,
M.G. ROAD, KOCHI-682 011, ERNAKULAM DISTRICT.**

**R2 BY ADV. SRI.P.SANKARANKUTTY NAIR
BY SRI.JOHN JOSEPH VETTIKAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 19-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

P.B.SURESH KUMAR, J.

M.A.C.A.No.1873 of 2013

Dated this the 19th day of August, 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 is a real estate broker. The accident took place on 5.3.2007. The claimant was aged 70 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.55,733/- and accordingly, an award was passed for the said amount. As

the vehicle involved in the accident was covered by a valid insurance policy, the insurer of the vehicle 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.A2 wound certificate issued to the claimant from Lourdes Hospital, Ernakulam indicates that he had suffered the following injuries.

- "1) Head injury and pain all over body
- 2) Lacerated wound on left parietal region 6x0.5x
0.5 c.m
- 3) Abrasion left knee, left elbow.
- 4) Incised wound on right forearm 2x0.5x0.5 cm
- 5) Gangrene left buttock.
- 6) Haematoma evacuation and excision of necrasal
tissue

- 7) Left high parietal calvarias soft tissue thickening due to trauma."

Exts.A6, A7 and A8 discharge summaries issued to the claimant from the hospital reveals that he had undergone inpatient treatment in the said hospital for altogether 18 days in connection with the injuries sustained by him in the accident. The claimant had produced before the Tribunal, the bills and vouchers evidencing expenditure of a sum of Rs.32,083/- towards medical expenses. The correctness of the quantum of compensation granted to the claimant by the Tribunal is to be examined in the light of the aforesaid facts.

5. Ext.A6 discharge summary issued to the claimant from Lourdes Hospital indicates that the claimant had sustained head injury in the accident. The said document also indicates that the he was admitted in the hospital on the date of the accident on 5.3.2007 and discharged only on

9.3.2007. Ext.A6 further indicates that the claimant was advised to take series of medicines. Exts.A7 and A8 discharge summaries indicate that the claimant was admitted again as inpatient in the Hospital for treatment in connection with the head injury sustained by him in the accident. Despite the aforesaid injuries and the prolonged inpatient treatment in the hospital, the Tribunal had granted only a sum of Rs.8,000/- to the claimant towards pain and sufferings. As noticed above, the claimant was aged 70 years at the time of the accident. The compensation granted to the claimant towards pain and sufferings, in the circumstances, is unreasonably low. On an evaluation of the materials on record, I am of the view that the claimant should have been granted at least a sum of Rs.20,000/-by the Tribunal towards pain and sufferings. Thus the claimant is granted a further sum of Rs.12,000/- towards compensation on that head. Likewise, only a sum of

Rs.6,000/- is seen granted to the claimant towards loss of amenities and enjoyments in life. Having regard to the age of the claimant and the injuries sustained by him, according to me, he is entitled to a minimum sum of Rs.15,000/- towards loss of amenities and enjoyments in life. The claimant is therefore, granted a further sum of Rs.9,000/- on that head. Towards extra nourishment, only a sum of Rs.1,500/- is seen awarded. According to me, in the aforesaid facts and circumstances, the claimant is entitled to a further sum of Rs.1,500/- on that head. Likewise, even though the claimant had undergone inpatient treatment for about 18 days in the hospital, only a sum of Rs.2,250/- is seen awarded towards attendant expenses. The said compensation is also liable to be revised. The claimant is granted a further sum of Rs.2,000/- on that head. Thus, the claimant is entitled to a further sum of Rs.24,500/- towards compensation.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.24,500/- 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, except for the period of delay in filing the appeal, viz., 529 days as ordered in C.M.Application No.2288 of 2012.

P.B.SURESH KUMAR, JUDGE.

smm