

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.B.SURESH KUMAR

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

MACA.No.933 of 2014

**(AGAINST THE AWARD DATED 8.5.2013 IN OP (MV) No.562/2010 OF THE MOTOR
ACCIDENTS CLAIMS TRIBUNAL,MANJERI).**

APPELLANT/PETITIONER:

**KUTTAN,AGED 30 YEARS,S/O.AANDI,
KOLAMANNIL HOUSE,VELLARAMKUNNU.P.O.
CHUNGATHA,NILAMBUR TALUK,MALAPPURAM DISTRICT.**

BY ADV. SRI.U.K.DEVIDAS

RESPONDENT:

**UNITED INDIA INSURANCE CO.LTD,
A.M.BUILDINGS,P.B.NO.9,HOSPITAL ROAD,
P.O.NILAMBUR (INSURER).**

**BY ADVS.SRI.P.SANKARANKUTTY NAIR
SRI.JOHN JOSEPH VETTIKAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

P.B.SURESH KUMAR, J.

M.A.C.A. No.933 of 2014

Dated 9th 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 to him by the Tribunal.

2. The claimant is a coolie. The accident took place on 28.4.2009. The claimant was aged 28 years at the time of accident. A sum of Rs.81,000/- 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.28,685/- 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 respondent at the time of accident, the respondent was directed to satisfy the award. The claimant is aggrieved by the said award.

3. Heard the learned counsel for the appellant/claimant and the learned counsel for the

respondent/insurer.

4. Ext.A2 is the wound certificate of the claimant. It is recited in Ext.A2 that the claimant sustained fracture of the base of the left first metatarsal and right radius. Ext.A4 is the discharge certificate issued to the claimant from the hospital where he was admitted and treated. He was hospitalised for 8 days.

5. A sum of Rs.16,000/- was claimed by way of compensation by the claimant towards loss of earnings. The Tribunal has reckoned the monthly income of the claimant at Rs.3,500/- and granted a sum of Rs.10,500/- towards loss of earnings for a period of three months. In so far as the accident took place in the year 2009, according to me, the monthly income of the claimant for the purpose of computing the compensation for loss of earnings should have been taken at Rs.5,000/-. If the compensation for loss of earnings is computed for a period of three months reckoning the monthly income at Rs.5,000/-, the claimant is entitled to a further sum of Rs.4,500/- towards compensation on that head. It is beyond disputed that the claimant underwent inpatient treatment in a hospital for 8 days. Only a sum of Rs.800/- is seen granted

towards bystander's expenses. According to me, the claimant is entitled to a further sum of Rs.1,200/- towards bystander's expenses. Likewise, no amount is seen granted towards extra-nourishment. According to me, the claimant is entitled to a further sum of Rs.1,000/- towards compensation for extra-nourishment. The claimant has been granted only a sum of Rs.8,000/- towards compensation for pain and suffering. In the nature of the injuries sustained by the claimant and the treatment undergone by him, he is certainly entitled to a further sum of Rs.7,000/- towards compensation for pain and sufferings. Likewise, the claimant has been granted only a sum of Rs.3,000/- towards compensation for loss of amenities and enjoyments in life. In the nature of injuries, I am of the view that the claimant is entitled to a further sum of Rs.7,000/- towards compensation for loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.20,700/- towards compensation.

6. 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.20,700/- more 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., 124 days, as ordered in C.M.Appn.No.1107 of 2014.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)