

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

MACA.No. 2039 of 2013

**AGAINST THE AWARD IN OP(MV) 264/2009 of MOTOR ACCIDENTS CLAIMS TRIBUNAL,
KALPETTA, DATED 31-05-2012**

APPELLANT(S)/PETITIONER:

**N.MUHAMMED SALI
S/O. N. ALI, AGED 41 YEARS, SHANA COTTAGE
CHERUMOOLAVAYAL, MUTTIL POST, MUTTIL SOUTH VILLAGE
VYTHIRI TALUK, WAYANAD DISTRICT.**

BY ADV. SMT.CELINE JOSEPH

RESPONDENT(S)/RESPONDENTS:

- 1. RAMESH JOSEPH
AGED 33 YEARS, S/O. P.A. JOSEPH, PATHICKAL
PALLIKUNNU, WAYANAD-686101.**
- 2. THE MANAGING DIRECTOR,
KERALA STATE ROAD TRANSPORT CORPORATION
THIRUVANANTHAPURAM-695001.**

R2 BY SRI.SREEPRAKASH K.NAIR, SC, KSRTC

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 03-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

P.B.SURESH KUMAR, J.

M.A.C.A. No.2039 of 2013

Dated 3rd February, 2015.

J U D G M E N T

The claimant in an application for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the quantum of compensation.

2. The claimant is a teacher. The accident took place on 23.10.2007. He was aged 37 years at the time of accident. He sustained a deep cut injury on his right hand web space, with injury to metacarpal ligament. He claimed a sum of Rs.75,000/- in the proceedings by way of compensation.

3. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to a sum of Rs.37,220/- and accordingly, an award was passed for the said amount. The claimant is aggrieved by the quantum of compensation granted by the Tribunal and hence this appeal.

4. Heard the learned counsel for the appellant as also the learned counsel for the respondents.

5. Ext.A5 is the copy of the wound certificate of the claimant. Ext.A5 recites that the claimant had sustained a deep cut injury in his right hand web space with injury to metacarpal

ligament. Ext.A11 is a copy of the discharge summary issued from the hospital where the claimant was admitted and treated. Ext.A11 recites that the claimant was undergoing treatment as an inpatient in the said hospital from 23.10.2007 to 27.10.2007. Ext.C1 is the medical certificate issued to the claimant from the District Medical Board, Wayanad. Ext.C1 certifies that his grip strength is reduced by 25% on account of the injury sustained by him in the accident. The doctors who had examined him for issuing Ext.C1 certificate also noticed numbness on his right little finger. The permanent disability of the claimant was assessed by the Medical Board as per Ext.C1 certificate at 7%.

6. Despite the injuries sustained by the claimant and the treatment undergone by him as noticed above, the Tribunal has granted only a sum of Rs.10,000/- towards pain and sufferings. According to me, in the nature of the injuries sustained by the claimant and the treatment undergone by him, he is entitled to a further sum of Rs.10,000/- towards pain and sufferings. The Tribunal had granted compensation to the claimant for continuing permanent disability reckoning his monthly income at Rs.3,000/- by applying the multiplier '9'. It

is beyond dispute that despite Ext.C1 certificate, the Tribunal had assessed the disability of the claimant only at 3%. Ext.A1 first information report, which was made available to me by the learned counsel for the appellant indicates that at the time of accident, the claimant was working as a teacher in a Government School. The claimant has stated in the application that he was earning a sum of Rs.7,400/- at the time of accident towards his monthly salary. The accident being one took place on 23.10.2007, I do not find any reason to disbelieve the version of the claimant that he was earning a sum of Rs.7,400/- by way of salary as teacher of a Government School. In **Sarla Verma and others v. Delhi Transport Corporation and another** [(2009) 6 Supreme Court Cases 121], the Apex Court held that in the case of persons in the age group of 36 to 40, the multiplier should be taken as '15' for the purpose of computing the compensation payable to them. If the compensation payable to the claimant for continuing permanent disability is worked out reckoning the monthly income at Rs.7,400/- and the multiplier at '15', the amount would come to Rs.39,960/-. The claimant is seen granted only a sum of Rs.9,720/- towards compensation for continuing

permanent disability. He is, therefore, entitled to a further sum of Rs.30,240/- towards compensation for continuing permanent disability. Towards compensation for loss of amenities and enjoyments in life, only a sum of Rs.3,000/- is seen granted. The claimant is certainly entitled to a further sum of Rs.7,000/- towards compensation for loss of amenities and enjoyments in life. Thus, altogether, the claimant is entitled to a further sum of Rs.47,240/- towards compensation.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal to the claimant is modified, granting a further sum of Rs.47,240/- by way of compensation. Needless to say, the claimant will be entitled to interest at the same rate at which interest was granted by the Tribunal.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)