

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

MACA.No. 977 of 2014 ()

AGAINST THE AWARD IN OPMV 470/2012 of M.A.C.T.,
KOZHIKODE, DATED 08-02-2013

APPELLANT/PETITIONER:-

MIRSHAD
S/O. SAIDALAVI, AGED 20 YEARS
RESIDING AT MUPPETTA HOUSE, CHINGANAMPOYIL, KOZHIKODE.

BY ADVS.SRI.V.S.CHANDRASEKHARAN
SRI.M.V.DAS
SMT.LEKSHMI SWAMINATHAN

RESPONDENTS/RESPONDENTS:-

1. KUNJIKOYA MASTER P.V.
S/O. HASSANHAJI, RESIDING AT 5/125, PARVAVANCHERI
VAIYAKATH P.O PULLIKKAL, MALAPPURAM.

2. HASHIR
S/O. ABDUL BARR, AGED 26 YEARS
RESIDING AT MUKKATH PULIYAKKODE HOUSE
P.O. KUMARANALLOOR, MUKKAM, KOZHIKODE.

3. NATIONAL INSURANCE COMPANY LIMITED
DIVISIONAL OFFICE, NOR COMPLEX, MAVOOR ROAD
KOZHIKODE.

R3 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A.No.977 of 2014.

Dated this the 17th day of March, 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 is a coolie. He was aged 18 years at the time of accident. The accident took place on 3.12.2011. A sum of Rs.75,000/- 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.20,000/- 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. Ext.A2 is the wound certificate produced by the claimant before the Tribunal. It is seen that the claimant sustained various injuries including fracture of lower end of the left radius. The fact that the claimant is a coolie is not seen disputed. In so far as the accident took place in the year 2011, in the light of the injuries sustained by the claimant, the Tribunal should have granted compensation for loss of earnings at least for a period of two months, reckoning his monthly income at Rs.5,000/-. It is seen that the Tribunal had granted only a sum of Rs.3,500/- towards compensation on that head. The claimant is therefore, entitled to a further sum of Rs.6,500/- towards compensation for loss of earnings. Towards pain and sufferings, the Tribunal had granted only a sum of Rs.10,000/-. According to me, in the nature of the injuries sustained by the claimant, the Tribunal should have granted at least a sum of Rs.15,000/- on that head. The claimant is therefore, entitled to a further sum of Rs.5,000/- on that head. Towards loss of amenities and enjoyment in life, only a sum of Rs.5,000/- is seen granted by the Tribunal. In the nature of the injuries

sustained by the claimant, I am of the view that he is entitled to a further sum of Rs.5,000/- on that head also. Thus, the claimant is entitled to a further sum of Rs.16,500/- towards compensation.

5. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7% 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.16,500/- 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., 187 days as ordered in C.M.Application No.1155 of 2014.

Sd/-P.B.SURESH KUMAR, JUDGE.

Kvs/-