

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

MACA.No. 1779 of 2011 ()

OPMV 1288/2006 of M.A.C.T.,KOLLAM

APPELLANT(S)/PETITIONER:

AMBIKA,
D/O RAMANIKUTTY AMMA, GANGA SADANAM, KURUMANDEL
PARAVOOR.

BY ADVS.SRI.PRATHEESH.P
SMT.BINDU GEORGE

RESPONDENT(S)/3RD RESPONDENT :

THE DIVISIONAL MANAGER,
NEW INDIA ASSURANCE CO.LTD., KOLLAM-691 001.

BY ADV. SRI.LAL GEORGE
BY ADV.SRI.A.A.ZIYAD RAHMAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 13-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.1779 OF 2011

Dated 13th 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 tailor. The accident took place on 21.5.2006. The claimant was aged 40 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.61,700/- 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. The Tribunal found that the claimant sustained various

injuries in the accident including fracture of her left forearm. Ext.A7 is the discharge card. The Tribunal noticed that the appellant had undergone treatment as inpatient in a hospital from 21.5.2006 to 27.5.2006. Towards loss of earnings, the Tribunal had granted only a sum of Rs.4,000/- for a period of two months, reckoning the monthly income of the claimant at Rs.2,000/-. The claimant is a tailor. The accident took place in the year 2006. In the circumstances, according to me, the monthly income of the claimant should have been reckoned at least at Rs.4,000/-. The claimant is therefore, entitled to a further sum of Rs.4,000/- towards loss of earnings. The Tribunal had granted a sum of Rs.21,600/- to the claimant towards compensation for continuing permanent disability, reckoning the monthly income at Rs.2,000/- and the disability at 6%, applying the multiplier '15'. Since it is found that the monthly income of the claimant should have been reckoned at Rs.4,000/-, the claimant is entitled to a further sum of Rs.21,600/- towards compensation for continuing permanent disability. No compensation is seen granted towards loss of amenities and enjoyments in life. Taking into account the facts and circumstances of the case, I am of the view that the

claimant has to be granted a sum of Rs.5,000/- on that head as well. Thus, the claimant is entitled to a further sum of Rs.30,600/- towards compensation.

5. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7.5% 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.30,600/- 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., 746 days as ordered in C.M.Application No.2669 of 2011.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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