

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

MACA.No. 2207 of 2013 ()

OPMV 375/2012 of M.A.C.T.,KOZHIKODE

APPELLANT(S)/PETITIONER:

SATHYAPRAKASAN P., S/O.DASAN AGED 50 YEARS
RESIDING AT PRAJITHA PULIYANKODE KUNNU
P.O.MERIKUNNU, KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENT(S)/RESPONDENTS :

1. SUBRAMANI R, S/O.RAMASWAMI
AGED NOT KNOWN RESIDING AT KALLASSERY PARAMBU
KALLAI (PO), KOZHIKODE.
2. MUHAMMEDALI K., S/O.KADEEJA, AGED 30 YEARS
RESIDING AT KOOMANCHERI HOUSE
THOTTAKKATTU AMBALAPPARA PO, THIRUVAZHAMKUNNU
MANNARKKAD, PALAKKAD.
3. THE ORIENTAL INSURANCE CO. LTD.
KINGS WAY BUILDING, 1ST FLOOR, MAVOOR ROAD
KOZHIKODE.

R3 BY ADV. SMT.A.SREEKALA
R3 BY SRI.GEORGE CHERIAN (THIRUVALLA)

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

P.B.SURESH KUMAR, J.

M.A.C.A. No.2207 of 2013

Dated 2nd 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 Telecom Mechanic in the service of BSNL. The accident took place on 23.3.2011. The claimant was aged 49 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.20,737/- 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 issued to the claimant from Baby Memorial Hospital, Kozhikode. Ext.A5 is the discharge summary issued to the claimant from the said hospital. It is seen that the claimant sustained various injuries in the accident including fracture of left scapula, contusion on left ankle etc. The Tribunal noticed that the claimant was undergoing treatment as an inpatient in the hospital for four days and awarded a sum of Rs.800/- towards compensation for bystander's expenses.

5. Even though it is stated in the claim petition that the claimant is a telecom mechanic in the service of BSNL, no document was produced to prove his income. As such, the Tribunal had not granted any compensation to the claimant for loss of earnings. Since the accident took place in the year 2011, in the absence of any evidence on the side of the claimant to prove his income, his monthly income should have been reckoned at Rs.5,000/- and the compensation should have been granted for loss of earnings for a period of two months.

Therefore, the claimant is entitled to Rs.10,000/- by way of compensation on that head. Towards pain and sufferings, the Tribunal has granted only Rs.12,000/-. In the nature of the injuries sustained and the treatment undergone by the claimant, I am of the view that the claimant has to be granted a further sum of Rs.8,000/- towards pain and sufferings. Towards compensation for loss of amenities and enjoyments in life, the Tribunal has granted only Rs.5,000/-. According to me, the claimant should have been granted at least a sum of Rs.10,000/- towards compensation for loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.5,000/- towards compensation on that head. It is seen that only a sum of Rs.500/- was granted by the Tribunal towards compensation for extra-nourishment. In the nature of the injuries, the claimant is entitled to a further sum of Rs.1,500/- on that head. Thus, the claimant is entitled to a further sum of Rs.24,500/- towards compensation.

6. 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.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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