

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

MACA.No. 1186 of 2014 ()

OPMV 1743/2010 of M.A.C.T.,KOZHIKODE

APPELLANT(S)/PETITIONER:

ELIZABETH, AGED 23 YEARS
D/O MARKOSE, RESIDING AT KALAPPURAYIL HOUSE
PUDUPPADI AMSOM, DEOSM, PADOOR
KAITHAPOYIL P.O, KOZHIKODE

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

RESPONDENT(S)/RESPONDENTS:

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1. P.V.DAMODHARAN,
S/O BICHANGAN, RESIDING AT PERUVANKANDY, NOORANTHODE
P.O, KOZHIKODE 673001
 2. NAZEER.K., AGED 41 YEARS
S/O ABOOBACKER, RESIDING AT KALLADI HOUSE, P.O
KAITHAPOYIL, THAMARASSERY, KOZHIKODE 673 003.
 3. THE ORIENTAL INSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE, NO 1, SEEMA BUILDING
G.H ROAD, CALICUT, 673001

R3 BY ADV. SRI.GEORGE CHERIAN (SR.)
R3 BY ADV. SMT.K.S.SANTHI
R3 BY ADV. SMT.LATHA SUSAN CHERIAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.1186 of 2014

Dated 10th April, 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 was a student. The accident took place on 7.7.2010. The claimant was aged 19 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.44,452/- 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. Ext.A4 is the referral OP ticket issued to the claimant from the Medical College Hospital, Kozhikode. The Tribunal found that the claimant sustained various injuries in the accident including an open fracture of olecranon and a lacerated wound on the posterior aspect of right arm with loss of skin and soft tissues. The Tribunal also found that the claimant was under treatment in the Medical College Hospital, Kozhikode from 7.7.2010 to 18.7.2010. The Tribunal further found that the claimant had undergone a surgical procedure in the course of the treatment on 8.7.2010. Ext.C1 is the disability certificate issued to the claimant from the Medical Board constituted at the Medical College Hospital, Kozhikode, certifying the disability of the claimant at 3%.

5. The Tribunal granted a sum of Rs.8,100/- towards compensation for continuing permanent disability reckoning the notional annual income of the claimant at Rs.15,000/-, applying the multiplier '18'. Since the accident took place in the year 2010, according to me, the notional annual income of the

claimant should have been reckoned at least at Rs.36,000/-. The claimant is, therefore, entitled to a further sum of Rs.11,340/- towards compensation for continuing permanent disability. As noticed above, the claimant was undergoing inpatient treatment in the Medical College Hospital for eleven days. Ext.A4 referral OP ticket would indicate that she was advised follow up treatment as well. Only an amount of Rs.1,000/- was granted by the Tribunal towards extra nourishment. Having regard to the facts of this case, I am of the view that the claimant shall be paid a further sum of Rs.2,000/- on that head. Towards compensation for pain and sufferings, as against the claim of Rs.40,000/-, the claimant was awarded only Rs.15,000/-. Having regard to the nature of injuries sustained by the claimant and the treatment undergone by her, I am of the view that the claimant is entitled to a further sum of Rs.5,000/- towards compensation on that head. Thus, the claimant is entitled to a further sum of Rs.18,340/- towards compensation.

6. It is seen that interest has been granted by the

Tribunal for the compensation awarded only at the rate of 8% 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.18,340/- 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.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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(true copy)