

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. 2338 of 2013 ()

OPMV 419/2012 of M.A.C.T.,KOZHIKODE

APPELLANT/PETITIONER:

RAHUL P.K , AGED 26 YEARS
S/O.THANKAPPAN, PAREKUDI HOUSE, NOORAMTHODU POST
ADIVARAM VIA, KOZHIKODE-673586

BY ADVS.SRI.R.SUDHISH
SMT.M.MANJU
SRI.K.R.RANJITH

RESPONDENT(S)/RESPONDENTS:

1. BASHEER
S/O.ALI, CHAKKALAKKAL HOUSE, POST NALKETTY
SULTHAN BATHERY, WYNAD DIST-673591
2. NOUSHAD, C K HOUSE,
KAYALODE, MAMBARAM POST, PINARAYI
KANNUR-670741
3. MUHAMMED M A
MUTHANGAYIL HOUSE, ODAPPALAM, POST MOOLAMKAVU
SULTHAN BATHERY, WYNAD-679 592
4. ORIENTAL INSURANCE COMPANY LTD,
KINGWAY BUILDING, MAVOOR ROAD, JUNCTION, KOZHIKODE DIST
PIN-673001

R4 BY ADV. SRI.R.PADMARAJ
R1 BY ADV. SRI.M.P.ASHOK KUMAR
R1 BY ADV. SRI.P.C.GOPINATH
R4 BY ADV.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.2338 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 painter. The accident took place on 20.5.2010. The claimant was aged 25 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.21,100/- 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 the Medical College Hospital, Calicut. The Tribunal noticed that the claimant had sustained fracture of his right ring finger. The Tribunal also noticed that the claimant sustained a lacerated wound on left ring and middle fingers. It is seen that the claimant was admitted and treated in the Medical College Hospital for the injuries sustained by him, for four days.

5. The Tribunal had granted a sum of Rs.4,000/- towards loss of earnings. True, the claimant had sustained injuries only on his fingers. The claimant being a painter, I am of the view that the injuries sustained on his fingers would certainly result in some functional disability. In the circumstances, according to me, the claimant has to be adequately compensated towards loss of earnings. In the absence of any disability certificate, I am inclined to grant a sum of Rs.6,000/- more towards loss of earnings. Towards pain

and sufferings, it is seen that the claimant was granted only a sum of Rs.10,000/-. Going by the injuries sustained by the claimant and the treatment undergone by him, I am of the view that the claimant is entitled to a further sum of Rs.5,000/- on that head. Towards loss of amenities and enjoyments in life, the claimant is seen granted a sum of Rs.5,000/-. On an evaluation of the materials on record, I am of the view that the claimant is entitled to Rs.2,500/- more towards compensation on that head. Thus, the claimant is entitled to a further sum of Rs.13,500/- towards compensation.

6. 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.

7. In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.13,500/- 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., 173 days as ordered in C.M.Application No.2889 of 2013.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)