

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

MACA.No. 875 of 2010 ()

AGAINST THE AWARD IN OPMV 1144/2006 of M.A.C.T.,
KOZHIKODE, DATED 27-08-2009

APPELLANT/CLAIMANT:-

SUBAIDA,W/O.MOIDEEN,AGED 34 YEARS,
KORANCHALIL HOUSE, MALAYAMMA.P.O, VIA REC
KOZHIKODE DISTRICT.

BY ADVS.SMT.K.V.RESHMI
SRI.M.N.SANDEEP

RESPONDENTS/RESPONDENTS:-

1. P.ABDURAHIMAN,S/O.MOOSA,OTHENGOTTU
HOUSE, P.O.MANIPURAM, KODUVALLY
KOZHIKODE.

2. THE NEW INDIA ASSURANCE CO.LTD,
DIVISIONAL OFFICE, SILVER PLAZA BLDG., INDIRA GANDHI
ROAD, KOZHIKODE.

R2 BY ADV.SRI.A.A.ZIYAD RAHMAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A.No.875 of 2010.

Dated this the 23rd 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 tailor. She was aged 31 years at the time of accident. The accident took place on 13.04.2006. 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.22,980/- 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.

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 the fracture of the shaft of the left humerus. Ext.A2 is the wound certificate produced by

the claimant before the Tribunal. Ext.A3 is the discharge summary issued to the claimant from the Medical College Hospital, Kozhikode. The Tribunal also found that the claimant was admitted and treated as inpatient in the Medical College Hospital from 13.4.2006 to 21.4.2006.

5. In the nature of the injuries sustained by the claimant and the treatment undergone by her, I am of the view that the claimant is entitled to compensation for loss of earnings at least for a period of three months. Since the accident took place in the year 2006, the monthly income of the claimant for determining the loss of earnings is liable to be reckoned at Rs.4,500/-. The claimant was granted only a sum of Rs.2,000/- towards compensation on that head. The claimant is therefore, entitled to a further sum of Rs.11,500/- towards compensation on that head. Towards pain and sufferings, it is seen that the Tribunal had granted only a sum of Rs.16,000/- to the claimant. In the nature of the injuries sustained by the claimant and the treatment undergone by her, I am of the view that she is entitled to a further sum of Rs.4,000/- on that head. The Tribunal had granted only a sum of Rs.2,500/- towards loss of amenities and enjoyments in life. On an evaluation of materials on record, I am

of the view that the claimant is entitled to a further sum of Rs.7,500/- towards compensation on that head. Though the claimant had undergone treatment as inpatient in the hospital for nine days, only a sum of Rs.1,000/- is seen granted towards bystander's expenses. I am of the view that the claimant is entitled to a further sum of Rs.1,000/- towards compensation for bystander's expenses. Towards extra nourishment, no compensation is seen granted. The claimant is entitled to a sum of Rs.3,000/- towards compensation for extra nourishment also. Thus, the claimant is entitled to a further sum of Rs.27,000/- 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.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.27,000/- 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%

M.A.C.A.No.875/2010.

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per annum, except for the period of delay in filing the appeal, viz.,
108 days, as ordered in C.M.Application No.1119 of 2010.

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

Kvs/-

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PA TO JUDGE.