

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. 880 of 2010 ()

OPMV 305/2008 of M.A.C.T.,KOZHIKODE

APPELLANT(S)/CLAIMANT:

JAYARAJ C, S/O. BALAN, CHETTIYIL HOUSE,
PUTHIYANIRATH, P.O.ELATHOOR, KOZHIKODE.

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

RESPONDENT(S)/RESPONDENTS:

1. M.SAJEEVAN, PROP.SAMUDRA ASSOCIATES,
20/91, N.K.V.R. MOTOR BUILDING, VATAKARA
2. P.P.MANMADHAN, S/O. KELU,
POYILPARAMBU HOUSE, P.O.IRINGAL, VADAKARA
KOZHIKODE DISTRICT.
3. THE ORIENTAL INSURANCE CO.LTD.,
DIVISIONAL OFFICE, SEEMA BUILDING, G.H.ROAD
KOZHIKODE.

R3 BY ADV.V.P.K.PANICKER

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.880 of 2010

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 U.P. School Assistant. The accident took place on 13.10.2007. The claimant was aged 42 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.52,320/- 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 of the claimant. Ext.A3 is the discharge certificate issued to the claimant from the hospital where he was admitted and treated for the injuries sustained by him in the accident. From Exts.A2 and A3, the Tribunal noticed that the claimant sustained various injuries including fracture of right clavicle and fracture of right scapula. The Tribunal also noticed that the claimant was admitted and treated as inpatient in the hospital from 13.10.2007 to 17.10.2007.

5. It is seen that the Tribunal has granted to the claimant only a sum of Rs.1,000/- towards compensation for loss of amenities and enjoyments in life. Since the claimant was not granted any compensation for continuing the disability, I am of the view that the claimant has to be adequately compensated for loss of amenities and enjoyments in life. In the nature of the injuries sustained and the treatment undergone by the claimant, a sum of Rs.14,000/- is granted towards compensation for loss of amenities and enjoyments in

life. It is seen that no compensation is awarded for extra-nourishment. According to me, in the facts of this case, the claimant is entitled to Rs.3,000/- towards compensation for extra-nourishment. Towards compensation for pain and sufferings, the Tribunal has awarded a sum of Rs.18,000/- to the claimant. According to me, he has to be granted a further sum of Rs.2,000/- towards pain and sufferings. Thus, the claimant is entitled to a further sum of Rs.19,000/- 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.19,000/- 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

MACA 880 of 2010

4

9% per annum.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)