

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

MACA.No. 891 of 2010 ()

OPMV.2120/2005 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, PERUMBAVOOR.

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APPELLANT/PETITIONER IN OP(MV):

**JUSTINE AUGUSTINE,
S/O.LATE AUGUSTINE, MYNATTUPARAMBIL HOUSE,
NEAR FATHIMA MATHA CHURCH, WEST KORATTY.**

**BY ADVS.SRI.V.V.NANDAGOPAL NAMBIAR,
SRI.PREEJA P.VIJAYAN,
SRI.RESHMI JACOB.**

RESPONDENTS/RESPONDENTS IN OP(MV):

- 1. SHIJU, MYNATTUPARAMBIL HOUSE,
MAMBRA P.O., WEST KORATTY.**
- 2. NEW INDIA ASSURANCE CO. LTD.,
SM SHOPPING COMPLEX, ALUVA ROAD,
ANGAMALY.**

R2 BY ADV. SRI.VPK.PANICKER.

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 23-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

PB.SURESHKUMAR, J.

M.A.C.A.No.891 OF 2010

Dated this the 23rd day of February, 2015.

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 Marketing Executive. The accident took place on 1.12.2004. The claimant was aged 22 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.19,902/- 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 of the vehicle 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.A6 is the accident register-cum-wound certificate issued

to the claimant from K.G.Hospital, Angamaly. Ext.A8 is the treatment certificate issued from the said hospital to the claimant. The Tribunal noticed that the claimant sustained laceration over his upper lip, chin, etc. The Tribunal also noticed that the claimant sustained fracture of two teeth. It is also seen that the claimant had undergone inpatient treatment for three days.

5. According to the claimant, at the time of accident, he was employed as a Marketing Executive of ICICI Prudential Life Insurance Company and he was earning a sum of Rs.8,450/- by way of salary. In the absence of any evidence, the Tribunal reckoned the monthly income of the claimant at Rs.2,500/- and granted Rs.2,500/- towards compensation for loss of earnings. Since the accident took place in the year 2004, I am of the view that the Tribunal should have taken the monthly income of the claimant at least at Rs.4,500/-. The claimant is, therefore, entitled to a further sum of Rs.2,000/- towards loss of earnings. The Tribunal granted a sum of Rs.5,000/- towards pain and sufferings. In the nature of 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/- towards compensation for pain

and sufferings. Towards loss of amenities and enjoyments in life, the Tribunal has granted only a sum of Rs.2,000/- as compensation. On an evaluation of the nature of the injuries sustained by the claimant, I am of the view that the claimant has to be granted a further sum of Rs.8,000/- towards loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.15,000/- 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.15,000/- 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, except for the period of delay in filing the appeal, viz., 145 days as ordered in C.M.Application No.1137/2010.

Sd/-

P.B.SURESH KUMAR, JUDGE

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