

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

MACA.No. 1612 of 2014 ()

**(AGAINST THE AWARD IN OP(MV).NO. 1000/2009 OF MOTOR ACCIDENTS CLAIMS
TRIBUNAL, MANJERI DATED 17-01-2014)**

APPELLANT/PETITIONER IN THE OP :

**VELLACHAMY, S/O. VEERASWAMY,
KALARIKANDI PURAI HOUSE, CHERUKAVU,
PULIKKAL, KONDOTTY, MALAPPURAM.**

**BY ADVS.SRI.B.MOHANLAL
SRI.T.PRASAD**

RESPONDENT(S)/RESPONDENTS IN THE OP :

- 1. P. VINOD, S/O. BALAKRISHNAN,
PUTHUKKARA HOUSE, PULIKKAL P.O.,
MALAPPURAM DISTRICT-673 637.**
- 2. THE DIVISIONAL MANAGER,
THE NEW INDIA INSURANCE COMPANY LIMITED,
MALAPPURAM BRANCH, MALAPPURAM,
REPRESENTED BY THE DIVISIONAL MANAGER,
THE NEW INDIA INSURANCE COMPANY LIMITED,
MALAPPURAM-673 001.**

R2 BY SRI.A.A.ZIYAD RAHMAN

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 04-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

P.B.SURESH KUMAR, J.

M.A.C.A.No.1612 of 2014

Dated this the 4th day of August, 2015

JUDGMENT

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 coolie. The accident took place on 4.1.2008. The claimant was aged 45 years at the time of accident. A sum of Rs.86,000/- 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.50,200/- and accordingly, an award was passed for the said amount. As the vehicle involved in the

accident was covered by a valid insurance policy, 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. The Tribunal found that the claimant sustained type II open fracture of tibia left. The Tribunal also found that the claimant had undergone inpatient treatment in the hospital for twelve days. The Tribunal granted compensation to the claimant towards loss of earnings for a period of three months, reckoning his monthly income at Rs.4,000/-. Since the accident took place in the year 2008, the monthly income of the claimant should have been reckoned by the Tribunal at least at Rs.5,000/-. The claimant is, therefore, entitled to a further sum of Rs.3,000/- towards compensation on that head. Towards pain and sufferings, despite the injury sustained by the claimant as aforesaid and the hospitalization undergone by him, only a sum of

Rs.12,000/- is seen granted by the Tribunal. According to me, the claimant is entitled to a further sum of Rs.3,000/- on that head. Towards continuing permanent disability, only a sum of Rs.19,200/- is seen granted, reckoning his monthly income at Rs.4,000/- and disability at 4%, applying the multiplier '10'. Going by the judgment of the Apex Court in ***Sarla Verma vs. Delhi Transport Corporation*** (2010(2) KLT 802(SC), the multiplier to be adopted in the case of a claimant aged 45 is '13'. The compensation payable to the claimant for loss of earnings in the circumstances is to be revised by reckoning his monthly income at Rs.5,000/- and disability at 4%, applying the multiplier '13'. The compensation payable under the said head would thus come to Rs.31,200/-. The claimant is therefore, entitled to a further sum of Rs.12,000/- towards compensation for continuing permanent disability. Thus, the claimant is entitled to a further sum of Rs.18,000/- towards compensation.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.18,000/- 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 interest was awarded by the Tribunal for the compensation granted.

P.B.SURESH KUMAR, JUDGE.

smm