

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

MACA.No. 1632 of 2014 ()

OPMV 796/2011 of M.A.C.T OTTAPPALAM

APPELLANT(S)/PETITIONER :

ANEESH BABU AGED 34 YEARS

S/O.BABU C G, CHERUVATHUR VEEDU, PATTAMBI
PALAKKAD DIST

BY ADV. SRI.R.SREEHARI

RESPONDENT(S)/RESPONDENTS:

1. HAMSA K., AGED 49 YEARS

S/O.MOIDEENKUTTY, KALLIDUMPIL HOUSE, KOTTOPADAM
MANNARKKAD, PIN-678583

2. HAMSA MOIDEEN

S/O.MOIDEEN, KALLIDUMPIL HOUSE, KOTTOPADAM
MANNARKKAD PIN-678583

3. IFFCO TOKIO GENERAL INSURANCE COMPANY LTD

BRANCH OFFICE, CALICUT-673001

R2 BY ADV. SRI.PAUL K.VARGHESE

R3 BY ADV. SRI.MATHEWS JACOB (SR.)

R3 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
01-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.1632 of 2014

Dated 1st June, 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 businessman. The accident took place on 10.8.2011. The claimant was aged 31 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.69,150/- 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. The claimant sustained various injuries in the accident including a lacerated wound over the ankle, a comminuted fracture on the right medial malleolus and fracture of right tarsal bones. Ext.A4 is the wound certificate. Ext.A5 is the discharge summary issued to the claimant from the hospital where he was admitted and treated for the injuries sustained by him in the accident. The Tribunal found that the claimant was admitted and treated as inpatient in the hospital for seven days. With the aforesaid facts, the correctness of the quantum of compensation granted by the Tribunal is to be examined.

5. The learned counsel for the appellant contended that the compensations granted by the Tribunal to the claimant towards pain and sufferings, loss of amenities and enjoyments in life, bystanders' expenses and extra nourishment are unreasonably low. It is seen that despite the injuries referred to above including the fractures sustained by the claimant, only a sum of Rs.15,000/- has been granted to the claimant towards compensation for pain and sufferings. The claim raised on that head was only for a sum of Rs.20,000/-. In the nature of injuries

sustained by the claimant, I am of the view that he was entitled to the entire amount claimed by him by way of compensation towards pain and sufferings. The claimant is, therefore, entitled to a further sum of Rs.5,000/- towards compensation on that head. Likewise, despite the injuries referred to above, the claimant is seen granted only a sum of Rs.5,000/- towards loss of amenities and enjoyments in life (wrongly shown in the award as compensation towards loss of earning power). On an evaluation of the materials on record, I am of the view that the claimant is entitled to a further sum of Rs.10,000/- on that head. The accident took place in the year 2011. As such, according to me, the claimant should have been granted bystanders' expenses by the Tribunal at least at the rate of Rs.300/- per day. The claimant has been granted bystander's expenses only at the rate of Rs.200/- per day. The claimant is, therefore, entitled to a further sum of Rs.700/- on that head. Likewise, only a sum of Rs.1,400/- is seen granted by the Tribunal towards extra nourishment. Since the accident took place in the year 2011, I am of the view that the claimant is

entitled to a further sum of Rs.1,600/- on that head. Thus, the claimant is entitled to a further sum of Rs.17,300/- 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.17,300/- 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.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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