

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

MACA.No. 1114 of 2010 ()

OPMV 893/2003 of M.A.C.T.,PERUMBAVOOR

APPELLANT(S)/PETITIONERS IN OP(MV):

MARY ESTHAPPAN,W/O.ESTHAPPAN,
MOLATHAN HOUSE, NEAR GANAPATHI VILASOM SCHOOL
KOOVAPPADY.

BY ADV. SRI.V.V.NANDAGOPAL NAMBIAR

RESPONDENT(S)/RESPONDENTS IN OP(MV):

1. SOMYA SOURPRAMANIAN,NO.8,2ND CROSS ROAD,
MULLAI NAGAR, PONDICHERRY.

2. NATIONAL INSURANCE COMPANY LTD.,
312, JN STREET, FOURTH FLOOR
PONDICHERRY.

3. NEW INDIA ASSURANCE CO.LTD,
IRINJALAKUDA.

,R3 BY ADV. SRI.M.RAJAGOPALAN

R2 BY ADV. SRI.MATHEWS JACOB (SR.)

R2 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 06-04-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.1114 of 2010

Dated 6th April, 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 social worker. The accident took place on 1.11.2002. The claimant was aged 39 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.18,370/- 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.A7 is the wound certificate issued to the claimant from Little Flower Hospital, Angamaly on 1.11.2002. The only injury noted in Ext.A7 is a lacerated wound over the right frontal region. Ext.A9 is the discharge summary issued to the claimant from the said hospital. It is seen that the wound of the claimant was sutured under local anesthesia. It is also seen that though the claimant was discharged after initial treatment from the hospital on 7.11.2002, on the very next day, she was admitted again in the hospital with the complaint of head ache and giddiness. She was discharged on that occasion on 13.11.2002. Ext.A10 is the discharge card issued to the claimant from the hospital on 13.11.2002. Ext.A11 discharge summary indicates that the claimant was again admitted in the hospital on 18.11.2002 and was discharged on 23.11.2002. Thus, altogether, the claimant was undergoing inpatient treatment in the hospital for 17 days. Since the inpatient treatments were after a short break of one day on the first occasion and three days on the second occasion, according to me, the same are to be taken as on account of the injuries

sustained by the claimant in the accident.

5. The Tribunal granted only a sum of Rs.2,000/- to the claimant towards loss of earnings. Since the claimant was in the hospital for 17 days in connection with the injuries sustained in the accident, I am of the view that the Tribunal should have awarded compensation for loss of earnings, at least for a period of one month. The Tribunal had reckoned the monthly income of the claimant only at Rs.2,000/-. Since the accident took place in the year 2002, according to me, the monthly income of the claimant should have been reckoned at least at Rs.4,500/-. The claimant is therefore, entitled to a further sum of Rs.2,500/- on that head. Despite the inpatient treatment undergone by the claimant for 17 days, only a sum of Rs.500/- is seen granted towards extra-nourishment. According to me, the claimant is entitled to a further sum of Rs.1,500/- towards extra-nourishment as well. Towards bystander's expenses, only a sum of Rs.1,000/- is seen granted. According to me, since the accident took place in the year 2002, the claimant is entitled to a further sum of Rs.2,000/- towards

bystander's expenses. Though the injury sustained by the claimant was only a lacerated wound, as noticed above, suturing was done after applying local anesthesia. It has also come out in evidence that the claimant had thereafter undergone inpatient treatment for 17 days. In the circumstances, according to me, the sum of Rs.4,000/- awarded by the Tribunal towards compensation for pain and sufferings is unreasonably low. The claimant is, therefore, granted a further sum of Rs.6,000/- towards pain and sufferings. Thus, the claimant is entitled to a further sum of Rs.12,000/- 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 from the date of application till 30.6.2007 and thereafter at 7.5% per annum till realization. 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.12,000/- 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% per annum.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)