

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

MACA.No. 1148 of 2010 ()

OPMV 1517/2006 of M.A.C.T.,KOLLAM

APPELLANT(S)/THIRD RESPONDENT :

THE ORIENTAL INSURANCE COMPANY LIMITED, KOLLAM,
REPRESENTED BY ITS ASSISTANT MANAGER, REGIONAL OFFICE,
METRO PALACE, KOCHI - 18.

BY ADVS.SRI.MATHEWS JACOB (SR.)
SRI.P.JACOB MATHEW

RESPONDENT(S)/PETITIONER :

KRISHNA PILLAI @ RADHAKRISHNA PILLAI,
S/O.RAMAN PILLAI, CHANDRABHAVANAM,
NEELIKULAM, KULASEKHARAPURAM P.O.,
KARUNAGAPPALLY.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.1148 of 2010

Dated 30th March, 2015.

J U D G M E N T

The insurer in a petition for compensation before the Motor Accidents Claims Tribunal is the appellant.

2. The accident took place on 26.9.2001. The claimant was a coolie aged 23 years at the time of accident. He claimed a sum of Rs.1,00,000/- by way of compensation in the petition. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to a sum of Rs.41,200/- as compensation and passed an award 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 indemnify the owner. The insurer is aggrieved by the quantum of compensation granted to the claimant and hence this appeal.

3. Heard the learned counsel for the appellant.

4. Ext.A2 is the wound certificate issued to the claimant from the District Hospital, Kollam. Ext.A7 is the

discharge card issued to the claimant from the said hospital. The Tribunal found that the claimant was initially taken to the Taluk Headquarters Hospital, Karunagappally and from there he was referred to the District Hospital, Kollam. Though what is recorded in Ext.A2 is only that the claimant had sustained an abrasion on the back of his skull, it is seen that the claimant was admitted and treated at the District Hospital from 26.9.2001 to 3.10.2001. It is also seen that thereafter, the claimant was referred to the Medical College Hospital, Thiruvananthapuram. Ext.A8 is the referral O.P. Card issued from the Medical College Hospital, Thiruvananthapuram. From Ext.A8, the Tribunal found that the claimant was treated at the Medical College Hospital for complaints of head ache and vomiting. It is also seen that brain scan was done on the claimant in the course of his treatment at the Medical College Hospital. Ext.A11 is the medical prescriptions issued to the claimant from the Medical College Hospital.

5. The Tribunal, on an appraisal of the materials on record, granted Rs.7,500/- towards compensation for loss of

earnings for a period of three months, a sum of Rs.1,000/- towards transport to hospital, a sum of Rs.1,000/- towards extra nourishment, a sum of Rs.500/- towards damage to clothing, a sum of Rs.700/- towards bystanders' expenses, a sum of Rs.1,694/- towards medical expenses, a sum of Rs.10,000/- towards pain and sufferings and a sum of Rs.18,720/- towards compensation for continuing permanent disability, reckoning the monthly income of the claimant at Rs.2,000/- and disability at 6%, applying the multiplier '13'.

6. The learned counsel for the appellant pointed out that the claimant had not produced any disability certificate and as such, the Tribunal had acted illegally in granting the sum of Rs.18,720/- towards compensation for continuing disability.

7. True, the claimant had not produced a disability certificate from the Medical Board to claim compensation for continuing disability. As noticed above, the claimant was a coolie. He was initially taken to the Taluk Headquarters Hospital, Karunagappally and thereafter, taking

note of the head injury sustained by him, he was referred to the District Hospital. The Tribunal found that the claimant had undergone inpatient treatment in the District Hospital from 26.9.2001 to 3.10.2001. The Tribunal also found that thereafter, he was referred to the Medical College Hospital. The Tribunal further found that at the Medical College Hospital, he was treated as an outpatient for the injuries sustained by him. Despite the fact that the claimant had to go to three hospitals and had to undergo inpatient treatment for about seven days in one hospital, including one at a distant place, only a sum of Rs.1,000/- is seen granted towards transportation expenses. Likewise, only a sum of Rs.1,000/- is granted to towards extra-nourishment. The compensations granted under the aforesaid heads are unreasonably low. Further, no compensation is seen granted towards loss of amenities and enjoyments in life. In the aforesaid circumstances, I do not propose to interfere with the impugned award, for, the sum of Rs.18,720/- granted to the claimant towards compensation for continuing permanent disability could have been granted by the Tribunal under the

heads loss of amenities and enjoyments in life, extra nourishment, transportation expenses, etc. On an evaluation of the entire materials on record, I am of the view that the compensation granted to the claimant in the proceedings represents the just compensation due to him. The impugned award, in the circumstances, does not warrant interference at the instance of the insurer.

The appeal is accordingly, dismissed.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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