

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

MACA.No. 290 of 2008

**AGAINST THE AWARD DATED 20-04-2007 IN OPMV 1038/2001 OF MOTOR ACCIDENTS
CLAIMS TRIBUNAL, IRINJALAKUDA**
.....

APPELLANT(S)/PETITIONER:

**VINOD, S/O. GOVINDA MENON,
ERADATHU HOUSE, PARAPOOKKARA VILLAGE, RAPPAL DESOM.**

**BY ADVS.SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.A.S.SABU
SRI.G.RAJESH (DIWAN)**

RESPONDENT(S)/RESPONDENTS:

- 1. VASU, S/O. RAMAN,
MEPPILLY THAZHATHU HOUSE, KAINOOR VILLAGE, DESOM,
VIA - OLLUR, THRISSUR DISTRICT.**
- 2. THE MANAGING DIRECTOR,
K.S.R.T.C., THIRUVANANTHAPURAM.**

R2 BY ADV. SRI.JOY GEORGE, SC

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

msv/

P.B.SURESH KUMAR, J.

M.A.C.A. No.290 of 2008

Dated 9th February, 2015.

J U D G M E N T

The claimant in an original petition for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the quantum of compensation granted to him by the Tribunal.

2. The claimant is a driver. The accident took place on 17.5.1999. The claimant was aged 30 years at the time of accident. A sum of Rs.1,00,000/- was claimed in the original petition by way of compensation for the injuries sustained by the claimant. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.18,050/- by way of compensation and accordingly, an award was passed for the said amount. The claimant is aggrieved by the said award.

3. Heard the learned counsel for the appellant and the learned counsel for the respondents.

4. Ext.A2 is the wound certificate of the claimant. Ext.A2 indicates that the claimant sustained injuries on his head. Ext.A7 is the reference card issued to the claimant from

the Medical College Hospital, Thrissur. Ext.A7 indicates that the claimant was treated as an inpatient in the hospital for five days. Ext.A7 also indicates that C.T.Scan was done on him in the course of the treatment. Ext.A8 is the C.T.Scan report done on the claimant. The impression on the C.T. Scan as is indicated in Ext.A8 reads thus :

“Haemorrhagic contusion left frontal and temporal region.
Subdural haematoma right temporal region with extension along the tentorium.
Mild cerebral edema.
Fracture of right occipital bone with extension to right occipital condyle and sphenoid sinus.”

It is evident from Ext.A8 that the claimant was suffering from subdural hematoma and mild cerebral edema on account of the accident.

5. Towards loss of earnings, only a sum of Rs.6,000/- is seen granted by the Tribunal to the claimant for a period of three months reckoning his monthly income at Rs.2,000/-. Since the fact that the claimant was a driver is not seriously disputed, according to me, the claimant is entitled to a sum of Rs.6,000/- more towards compensation for loss of earnings. Despite the fact that the claimant was treated as an inpatient in a hospital for five days, only a sum of Rs.500/- is

seen granted towards bystander's expenses and towards extra-nourishment. According to me, the claimant is entitled to a further sum of Rs.1,500/- towards bystander's expenses and extra-nourishment. Towards pain and sufferings, the claimant is seen granted only a sum of Rs.8,000/-. The said compensation is also inadequate. In the nature of the injuries sustained by the claimant, he is entitled to a further sum of Rs.7,000/- towards compensation for pain and sufferings. Since the claimant has not been compensated for continuing the disability, according to me, he has to be adequately compensated for loss of amenities and enjoyments in life. The Tribunal has granted only a sum of Rs.3,000/- on this head. According to me, in the nature of the injuries sustained by the claimant, he being a driver by profession, he is entitled to a further sum of Rs.17,000/- towards loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.31,500/- towards compensation.

6. In the result, the appeal is allowed in part. The compensation granted by the Tribunal to the claimant is modified, granting a sum of Rs.31,500/- more 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.

tgs

(true copy)