

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

MACA.No. 2007 of 2014 ()

AGAINST THE AWARD IN OPMV 304/2009 of M.A.C.T., KOZHIKODE DATED 29-01-2010

APPELLANT/PETITIONER:

**VELAYUDHAN M, AGED 50 YEARS
S/O KTTAN, SARANGI PATTEL THAZHAM, POKKUNNU POST
KOZHIKODE**

**BY ADVS.SRI.AVM.SALAHUDIN
SMT.A.D.DIVYA**

RESPONDENT/3RD RESPONDENT:

**THE NATIONAL INSURANCE CO. LTD,
DIVISIONAL OFFICE, NOOR COMPLEX, MAVOOR ROAD,
KOZHIKODE 673 001.**

BY SRI.M.A.GEORGE

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 12-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S ANNEXURES:

- ANNEXURE A1:** MEMO DATED 27.5.2014 ISSUED TO SANTHOSH KUMAR K.P. (ADVOCATE-CLERK) BY ADV.RASHMI K.V., PARTNER, BELVERDIA LEGAL L.L.P.
- ANNEXURE A2:** EXPLANATION DATED 30.5.2014 GIVEN BY SANTHOSH KUMAR K.P. TO ADV.RASHMI K.V.
- ANNEXURE A3:** THE NOTICE ISSUED BY ADV.RASHMI K.V. TO ADV. ANIL THOMAS, SR. PARTNER BELVERDIA LEGAL L.L.P., COCHIN WITH A REQUEST TO CONDUCT ENQUIRY AGAINST THE ADVOCATE-CLERK.
- ANNEXURE A4:** NOTICE DATED 3.6.2014 ISSUED TO SANTHOSH KUMAR K.P. (ADVOCATE-CLERK) SUSPENDING HIM BY ADV. ANIL THOMAS, SR. PARTNER BELVERDIA LEGAL L.L.P., COCHIN.
- ANNEXURE A5:** LETTER DATED 4.6.2014 TO THE REGISTRAR GENERAL, HIGH COURT OF KERALA BY ADV. ANIL THOMAS, SR. PARTNER BELVERDIA LEGAL L.L.P., COCHIN INFORMING THE SUSPENSION OF THE CLERK AND REQUESTING TO TAKE APPROPRIATE ACTION AGAINST THE ADVOCATE-CLERK WHO COMMITTED DERELICTION OF DUTY.

RESPONDENT(S) ANNEXURES: NIL

/TRUE COPY/

P.A. TO JUDGE

VPV

P.B.SURESH KUMAR, J.
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M.A.C.A.No.2007 of 2014
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Dated this the 12th day of January, 2015

JUDGMENT

The claimant in a proceeding for compensation before the Motor Accident Claims Tribunal has come up in this appeal challenging the quantum of compensation granted to him.

2. The claimant was a Drilling Assistant in the Ground Water Department of the State Government. He was aged 45 years at the time of accident. He sustained injuries in the accident took place on 29.11.2008. He claimed a total sum of Rs.60,000/- by way of compensation.

3. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled only for a sum of Rs.6,250/- and an award was passed accordingly for the said amount.

4. Heard the learned counsel for the appellant/claimant as also the learned counsel for the respondent/insurer.

5. Ext.A2 wound certificate indicates that the claimant had sustained contusion of right knee, right wrist and multiple injuries all over the body in the accident. Ext.A2 also indicates that one tooth of the appellant on the upper side was broken. Ext.A2

further indicates that the appellant was treated in the Government General Hospital, Kozhikode on the date of the accident. Ext.A5 series are the OP tickets issued to the appellant from the Medical College Hospital, Kozhikode. Ext.A5 series indicate that the appellant had gone to the Medical College Hospital, Kozhikode for treatment on various dates namely, 1.12.2008, 8.12.2008, 29.12.2008, 5.1.2009, 12.1.2009, 2.2.2009, 16.2.2009 and 8.3.2009. Ext.A5 series also indicate that the appellant was treated at the Government Dental College attached to the Medical College Hospital, Kozhikode for the injuries suffered to his tooth. Ext.A5 series further indicate that the appellant had gone to MIMS Hospital, Kozhikode for physiotherapy treatment on 6.1.2009, 7.1.2009, 8.1.2009, 9.1.2009, 13.1.2009 and 15.1.2009. Ext.A8 is the leave detailed statement issued by the District Officer, Ground Water Department to the appellant. Ext.A8 leave detailed statement indicates that the appellant was on leave from 1.12.2008 to 22.12.2008, from 27.12.2008 to 31.12.2008 and from 1.1.2009 to 3.1.2009. Ext.A9 series are the medical bills produced by the appellant before the tribunal for a total sum of Rs.1,722/-.

6. The Tribunal had granted only a sum of Rs.6,250/- to the claimant by way of compensation. Though the claimant had

produced medical bills for Rs.1,722/-, the Tribunal granted only Rs.500/- towards the medical expenses incurred by the claimant. Towards loss of earnings, the Tribunal granted only Rs.750/- by way of compensation. Likewise, towards pain and suffering, the Tribunal granted only Rs.5,000/- to the claimant.

7. According to me, the compensation granted by the Tribunal to the claimant is inadequate. Though the injuries sustained to the claimant as noted in the wound certificate do not appear to be serious, the documents produced by the claimant before the Tribunal as referred to above, indicate that the claimant was undergoing treatment as out patient in the Government General Hospital, Kozhikode, the Medical College Hospital, Kozhikode and also in MIMS Hospital, Kozhikode, for about two months. Ext.A8 leave detailed statement produced by the claimant would indicate that he was virtually absent from his office during those periods. Unfortunately, there is no evidence on record to show that the claimant suffered loss of wages. As such, I am unable to grant any compensation to the claimant on that account. However, the materials on record are sufficient for this Court to enhance the compensation granted to the claimant by the Tribunal for pain and suffering from Rs.5,000/- to Rs.12,500/-. Likewise,

the claimant is entitled to some amount for loss of amenities also, which I fix at Rs.5,000/-. He is also entitled to reimbursement of the entire medical expenses incurred by him, namely Rs.1,722/-.

8. In the result, the award passed by the Tribunal is modified and the claimant is granted a further sum of Rs.13,722/- by way of compensation. Needless to say, the claimant will be entitled to interest also for the enhanced compensation, except for the period of 1542 days covered by order dated 6.11.2014 in C.M.Appln.No.2297 of 2014.

The appeal is allowed as above.

**Sd/-
P.B.SURESH KUMAR
JUDGE**

vpv