

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

MACA.No. 2120 of 2014 ()

AGAINST THE AWARD IN OPMV 1027/2013 of M.A.C.T.,
KOZHIKODE, DATED 30-04-2014

APPELLANT/PETITIONER:-

DHANANJAY S. DAS (MINOR) AGED 12 YEARS
S/O. DASAN, DB: 6-4-2001 (MINOR)
REP. BY MOTHER SHEEJA.V.V. W/O. DASAN, SREYAS HOUSE
P.O. KADALLOOR, KOYILANDY, KOZHIKODE
NOW RESIDING AT DEVARAGAM, PARAMBINTE MUKAL
P.O. THURUTHIYAD, BALUSSERY VIA, KOZHIKODE.

BY ADV. SRI.ROY CHACKO

RESPONDENTS/RESPONDENTS:-

1. ARUNJITH
S/O. CHERUNNI, THKAYYIL HOUSE, P.O. PULIKKAL
ALUNGAL, MALAPPURAM, KOZHIKODE-673001.

2. DINESAN.M., AGED 41 YEARS
S/O. KUMARAN.M., CHOORAKAVIL HOUSE, P.O. AYIKKARAPADI
PULIKKAL, MALAPPURAM DISTRICT-676505.

3. THE ORIENTAL INSURANCE CO. LTD.
D.O.I. SEENA BUILDING, G.G. ROAD
OPP. KOTTAPARAMBA HOSPITAL, KOZHIKODE-673001.

R3 BY ADV. SRI.P.JAYASANKAR
R3 BY SMT.K.S.SANTHI

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A.No.2120 of 2014.

Dated this the 17th day of March, 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 was a minor boy. He was aged 12 years at the time of accident. The accident took place on 7.12.2012. A sum of Rs.50,000/- 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.20,000/- 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 Tribunal found that the claimant sustained fracture to two teeth on the upper jaw, mobility of two other teeth, a lacerated wound on the lower lip, and a soft tissue injury in the accident. The Tribunal also found that the claimant was admitted and treated at District Co-operative Hospital, Kozhikode, Medical College Hospital, Kozhikode and Dental College Hospital, Kozhikode. Ext.A2 is the wound certificate issued to the claimant from the Medical College Hospital, Kozhikode.

5. The Tribunal granted only a sum of Rs.500/- towards extra nourishment. As noticed above, the claimant had undergone treatment at various hospitals for the injuries sustained by him. According to me, in the nature of the treatment undergone by the claimant, some more amount should have been granted by the Tribunal towards extra-nourishment. The further amount payable to the claimant towards extra-nourishment is accordingly fixed at Rs.2,500/-. No separate compensation is seen granted by the Tribunal

for the injuries and disabilities sustained by him. As such, according to me, the Tribunal should have adequately compensated the claimant under the head loss of amenities. Only a sum of Rs.3,000/- is seen granted towards compensation for loss of amenities and enjoyments in life. In so far as it is found that the claimant had sustained fracture to two teeth on the upper jaw and mobility of two other teeth, I am of the view that the claimant should have been granted at least a sum of Rs.15,000/- towards loss of amenities and enjoyments in life. The claimant is therefore, entitled to a further sum of Rs.12,000/- on that head. Thus, the claimant is entitled to a further sum of Rs.14,500/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 8% per annum. 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.14,500/- 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.

Kvs/-

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PA TO JUDGE.