

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

MACA.No. 1723 of 2010 ()

AGAINST THE AWARD IN OPMV 155/2003 of M.A.C.T.,
THALASSERY, DATED 27-10-2009.

APPELLANT/PETITIONER:-

A.V.RAGHAVAN, AGED 61 YEARS, S/O.KANNAN,
'SREE THILAKAM', NEAR S.S.TEMPLE, P.O.PAYYANNUR.

BY ADVS.SRI.V.R.KESAVA KAIMAL
SRI.N.M.MADHU

RESPONDENTS/RESPONDENTS:-

1. SATHEESAN, S/O.BALAN, 31 YEARS,
KANDATHIL HOUSE, NEAR HARIJAN COLONY, PAPPINISSERY.

2. MANAGING PARTNER, KAYCEE TRANSPORT,
SOUTH BAZAR, KANNUR.

3. M/S.UNITED INDIA INSURANCE CO. LTD.,
KANNUR.

4. P.MOHANAN, S/O.PADMANABHAN,
60 YEARS, DEVIKRIPA, PALKULANGARA
P.O.PATTAM, THIRUVANANTHAPURAM.

5. M/S.ORIENTAL INSURANCE CO. LTD.,
ROHINI BUILDING, THAKKARAPARAMBA ROAD, TRIVANDRUM.

R,R5 BY ADV. SRI.VPK.PANICKER
R3 BY SRI.JOHN JOSEPH VETIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A.No.1723 of 2010.

Dated this the 9th 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 the Secretary of a Co-operative Society at the time of the accident. The accident took place on 8.8.2002. The claimant was aged 54 years. A sum of Rs.80,000/- 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.43,900/- 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.A2 is the wound certificate issued to the claimant from the Medical College Hospital, Pariyaram. Ext.A3 is the discharge card issued to the claimant from the said hospital. The

Tribunal found that the claimant sustained fracture of calcaneum. He was under inpatient treatment for two days.

5. The claimant has produced Ext.A6 certificate from his employer showing that he was on leave from 9.8.2002 to 5.10.2002. Ext.A6 certificate would indicate that the claimant was not able to work for about two months. Ext.A5 salary certificate produced by the claimant indicates that he was drawing a salary of Rs.8,101/-. The claimant, in the circumstances, is entitled to two months salary by way of loss of earnings. In the light of Ext.A6 certificate, the claimant is entitled to a sum of Rs.16,202/- towards compensation for loss of earnings.

6. The claimant had produced Ext.A8 disability certificate from the Medical Board attached to the Medical College Hospital, Pariyaram. The Tribunal ignored Ext.A8 disability certificate on the ground that by the time the disability certificate was issued, the claimant had retired from service. True, the disability must not have affected the earning capacity of the claimant. But, at the same time, the fact remains that the claimant has sustained 8% whole body disability in the accident. He has to be compensated for the said disability. Since the claimant has already retired from service, I am of the view that he has to be

compensated under the head loss of amenities and enjoyments in life. On an evaluation of the entire materials on record including the injuries sustained by the claimant and the treatment undergone by him, I am of the view that the claimant is entitled to a further sum of Rs.20,000/- towards loss of amenities and enjoyment in life. Thus, the claimant is entitled to a further sum of Rs.36,202/- towards compensation.

7. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7.5% 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.36,202/- 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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