

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. 1741 of 2010 ()

AGAINST THE AWARD IN OPMV 1052/2006 of MACT,
IRINJALAKUDA, DATED 31-12-2009.

APPELLANT/PETITIONER:-

SIVARAMAN, S/O. KURUMBAN,
KURUPATHUKATTIL HOUSE, KOTTANELLUR DESOM, VILLAGE PO
MUKUNDAPURAM TALUK.

BY ADV. SRI.V.BINOY RAM

RESPONDENTS/RESPONDENTS:-

1. ANTONY JOSE, EDAPPILLY HOUSE,
KOTTANELLUR PO, THRISSUR DISTRICT 680 672.

2. BIJOY, S/O. PARAMU, KURUPATHUKATTIL HOUSE,
KOTTANELLUR DESOM, VILLAGE, PO
THRISSUR DISTRICT, 680672.

3. THE MANAGER, NATIONAL INSURANCE CO.LTD.,
KOLLANNUR DEVASY SMARK BUILDING, ROUND NORTH
THRISSUR 680001.

R1 BY ADV. SRI.MURALI PURUSHOTHAMAN

R3 BY ADV. SRI.M.A.GEORGE

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.1741 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 is a businessman. The accident took place on 18.5.2006. The claimant was aged 45 years at the time of accident. A sum of Rs.1,00,000/- 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.13,500/- 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.A16 is the wound certificate and Ext.A17 is the treatment certificate issued to the claimant from the Co-operative Hospital, Irinjalakuda. The Tribunal found that the claimant has sustained a deep lacerated wound over the left elbow, an incised wound on the right side of the neck and fracture of the fifth rib on the right side. The Tribunal also found that the claimant had undergone inpatient treatment for a period of five days in the hospital. As noticed above, the claimant is a businessman. The accident took place in the year 2006. The claimant was granted compensation for loss of earnings by the Tribunal only for a period of one and a half months, reckoning his monthly income at Rs.2,000/-. According to me, since the accident took place in the year 2006, the monthly income of the claimant should have been reckoned at Rs.4,500/-. The claimant is therefore entitled to a further sum of Rs.3,750/- on this head. Towards bystander's expenses, only a sum of Rs.500/- is seen

granted. Since the accident took place in the year 2006, according to me, the claimant should have been granted bystander's expenses at the rate of Rs.200/- per day. The claimant is therefore entitled to a further sum of Rs.500/- towards bystander's expenses. Towards pain and sufferings, only a sum of Rs.7,000/- is seen granted. In the nature of the injuries sustained, the claimant is entitled to a further sum of Rs.8,000/- on that head. Towards loss of amenities and enjoyments in life, only a sum of Rs.3,000/- is seen granted. On an evaluation of the materials on record, I am of the view that the claimant is entitled to a further sum of Rs.7,000/- on this head. Thus, the claimant is entitled to a further sum of Rs.19,250/- towards compensation.

5. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7% 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.19,250/- 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, except for the period of delay in filing the appeal, viz., 140 days as ordered in C.M.Application No.2211 of 2010.

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

Kvs/-

// true copy //

PA TO JUDGE.