

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. 2392 of 2014 ()

OPMV 753/2009 of M.A.C.T.,PERUMBAVOOR

APPELLANT(S)/PETITIONER:

A.P. KUNJU MOHAMMED
S/O. PAREED, ARACKALKUDY HOUSE, VENGOLA
MAROTTICHODU, ERNAKULAM DISTRICT.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENT(S)/RESPONDENTS :

1. YOUSUF T.K.
THOLAKKARA HOUSE, ERUMATHALA.P.O., PIN-683105
ERNAKULAM DISTRICT.
2. SUDHEESH
S/O. SUDHAKARAN, THOTTUPURAM HOUSE, KODANAD.P.O.
KURICHILAKODU, NEAR AMBATTU CANAL
ERNAKULAM DISTRICT-683544.
3. RELIANCE GENERAL INSURANCE CO. LTD.,
PERUMBAVOOR, ERNAKULAM DISTRICT-683542.

R3 BY ADV. SRI.K.B.RAMANAND

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

P.B.SURESH KUMAR, J.

M.A.C.A. No.2392 of 2014

Dated 9th 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 petty trader. The accident took place on 27.6.2008. The claimant was aged 51 years at the time of accident. A sum of Rs.75,000/- 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.36,029/- 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 injuries sustained by the claimant, as noted in Ext.A6 wound certificate are the following :

- (1) Pain and difficulty in moving the left shoulder.
- (2) Small injury left side of forehead
- (3) Left fronto parietal chronic sub dural haematoma.

Ext.A6 wound certificate also recites that the claimant had sustained fracture of left clavicle. Ext.A6 indicates that the claimant was admitted and treated as inpatient at Carmel Hospital for a period of five days, from 28.6.2008 to 2.7.2008. Ext.A7 is the discharge summary issued to the claimant from MOSC Medical College Hospital, Kolencherry. Ext.A7 indicates that the claimant was diagnosed to have left fronto parietal chronic sub dural haematoma. Ext.A7 also indicates that CT Scan was done on him. Ext.A7 further indicates that the claimant was admitted and treated as inpatient in the said hospital from 31.8.2008 to 7.9.2008.

5. Though a sum of Rs.18,000/- was claimed towards loss of earnings, the Tribunal had granted only a sum of Rs.1,750/- towards compensation on that head. In so far as it

is established that the claimant had undergone inpatient treatment upto 7.9.2008 in connection with the injuries sustained by him in the accident, I am of the view that the claimant should have been granted compensation for loss of earnings at least for a period of three months. Since the accident took place in the year 2008, according to me, the monthly income of the claimant should have been reckoned at Rs.5,000/-. The claimant is, therefore, entitled to a further sum of Rs.13,250/- towards compensation for loss of earnings. As noticed above, the claimant had undergone inpatient treatment for 13 days. The Tribunal had granted only a sum of Rs.1,200/- towards bystander's expenses. According to me, the claimant is entitled to a sum of Rs.250/- per day towards bystander's expenses. The claimant is, therefore, entitled to a further sum of Rs.2050/- towards compensation for bystander's expenses. It is seen that the Tribunal had granted only a sum of Rs.6,000/- towards pain and sufferings. In the nature of the injuries sustained and the prolonged treatment undergone by him, I am of the view that the claimant should have been granted at least

a sum of Rs.20,000/- towards pain and sufferings. Therefore, the claimant is entitled to a further sum of Rs.14,000/- towards compensation for pain and sufferings. The Tribunal had awarded only Rs.4,000/- to the claimant towards loss of amenities and enjoyments in life. It is seen that no compensation is granted towards continuing disability and loss of earning power. In the circumstances, the claimant is entitled to be adequately compensated under the head loss of amenities and enjoyments in life. On an evaluation of the materials on record, I am of the view that the claimant is entitled to a further sum of Rs.10,000/- for loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.39,300/- 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.39,300/- 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.

tgs

(true copy)