

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

MACA.No. 2507 of 2014

**OPMV 573/2010 MOTOR ACCIDENTS CLAIMS TRIBUNAL, KASARAGOD
DATED 15-02-2014**
.....

APPELLANT(S)/PETITIONER:

**SONY MATHEW,
S/O MATHEW, MYLADOOR HOUSE, KOLIYAR,
P.O.PARAPPA, THAYANNUR VILLAGE, HOSDURG TALUK,
KASARAGOD DISTRICT.**

**BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA
SRI.BOBY C. BABY
SRI.ANOOP BHASKAR**

RESPONDENT(S)/RESPONDENT:

- 1. C.P.SASI,
S/O BALAN C.K., CHOLAVAKKOTTIL HOSUE, VADAYAMPADY,
PUTHENCRUZ, ERNAKULAM DISTRICT, PIN - 682 308.**
- 2. THE STATE HEALTH TRANSPORT OFFICER,
DIRECTORATE OF HEALTH AND FAMILY WELFARE SERVICES,
GOVERNMENT OF KERALA, PALAYAM, THIRUVANANTHAPURAM,
PIN - 695 033.**
- 3. THE DISTRICT INSURANCE OFFICER,
2ND FLOOR, MUNICIPAL BUS STAND COMPLEX, OLD BUS STAND,
KASARAGOD, PIN - 671 121.**

R2 & R3 BY GOVERNMENT PLEADER SRI.EGGY N. ELIAS

**THIS MOTOR ACCIDENTS CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 08-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

msv/

P.B.SURESH KUMAR, J.

M.A.C.A.No.2507 of 2014

Dated this the 8th day of July, 2015

JUDGMENT

The claimant in a proceedings for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the inadequacy of the quantum of compensation granted to him as also the interest awarded for the compensation determined as due.

2. The case of the claimant is that he sustained injuries in the accident took place on 26.11.2009, involving a vehicle driven by the first respondent and owned by the second respondent. The vehicle was covered by a valid insurance policy issued by the third respondent. The Tribunal on a perusal of the materials on record granted a sum of Rs.35,000/- by way of compensation as against the claim of Rs.1,00,000/-. The appellant is aggrieved by the said decision of the Tribunal.

3. Heard the learned counsel for the appellant.

4. Ext.A3 wound certificate is the only document produced by the claimant before the Tribunal to prove that he had sustained injuries in the accident. The Tribunal found that the claimant sustained various injuries in the accident including three fractures. The Tribunal also found that the claimant had undergone inpatient treatment in the hospital from 26.11.2009 to 8.12.2009. It is seen that in the absence of the materials on record, the Tribunal did not grant any compensation towards reimbursement of medical expenses incurred by the claimant.

5. The learned counsel for the appellant pointed out that there was some omission on the part of the counsel for the appellant before the Tribunal in informing the appellant about the trial of the claim petition and consequently, he could not produce the documents evidencing the treatment undergone by him and the expenses incurred for the same. The appellant has produced a number of documents before this Court to establish his case that he had incurred substantial expenses for the treatment of the injuries sustained by him in the accident. Though satisfactory explanation is not offered for not producing

those documents before the Tribunal, the claimant being a victim of the motor accident, I am of the view that he shall be afforded an opportunity to adduce evidence in support of his claim, especially the evidence indicating the expenses incurred by him for treatment of the injuries sustained by him in the accident.

In the result, the appeal is allowed, the impugned award is set aside and O.P(M.V)No.573 of 2010 is remitted to the Motor Accidents Claims Tribunal, Kasaragod for fresh disposal after affording the appellant an opportunity to adduce further evidence. The registry shall return the original documents produced by the appellant before this Court to his counsel.

P.B.SURESH KUMAR, JUDGE.

smm