

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

MACA.No. 2167 of 2010 ()

OPMV 730/2007 of M.A.C.T OTTAPPALAM

APPELLANT(S)/PETITIONER:

KRISHNANKUTTY,S/O.VELAYUDHAN,
PUTHENVEETIL HOUSE, THEKKEPOTTA (PO)
PUDUKKADE(VIA), PALAKKAD.

BY ADV. SRI.SHEJI P.ABRAHAM

RESPONDENT(S)/RESPONDENTS :

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1. BALAKRISHNAN AGED 65 YEARS,
S/O.KUNJIRAMAN NAIR, KULAKKUNNETH HOUSE, MAYYANNUR
KONDAZHY VILLAGE, KONDAZHY P.O., THRISSUR-680 512.
 2. THE NEW INDIA ASSURANCE CO.LTD,
PERINCHERY BUILDING, ROUND NORTH, THRISSUR-680 508
POLICY NO.221600/31/06/01/00000836
VALID FROM 26/10/06 TO 25/10/2007.

R2 BY ADV. SMT.A.SREEKALA

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.2167 of 2010

Dated 12th February, 2015.

J U D G M E N T

The claimant in an original 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 salesman. The accident took place on 11.5.2007. The claimant was aged 30 years at the time of accident. A sum of Rs.1,00,000/- was claimed in the original petition by way of compensation for the injuries sustained by the claimant. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.12,000/- by way of compensation and accordingly, an award was passed for the said amount. While determining the compensation payable to the claimant at Rs.12,000/-, the Tribunal had not considered the eligibility of the claimant to get compensation on different heads separately. 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 of the claimant. Ext.A7 is the discharge certificate issued to the claimant from Medical College Hospital, Thrissur. The details of injuries noticed in Ext.A2 are abrasion and swelling on the left side of the chest, multiple abrasions on the right forearm, abrasions on the upper lip, abrasions on the left forehead etc. He was admitted and treated in the Medical College Hospital for three days. The Tribunal noticed from Ext.A7 that the claimant had sustained fracture of left clavicle.

5. As the Tribunal had not considered the eligibility of the claimant to get compensation on different heads separately, it is necessary for me to examine the eligibility of the claimant to get compensation on different heads separately. Since the accident took place in the year 2007 and

the claimant being a salesman, I am of the view that he is entitled to compensation for loss of earnings at least for a period of two months, reckoning his monthly income at Rs.4,500/-. The claimant is, therefore, entitled to a sum of Rs.9,000/- towards loss of earnings. Towards transportation expenses, the claimant is entitled to a minimum of Rs.500/-. Likewise, towards extra nourishment, having regard to the nature of injuries sustained and the treatment undergone, the claimant is entitled to a sum of Rs.2,000/-. For the three days of hospitalisation, he is entitled to at least a sum of Rs.1,000/- towards bystander's expenses. Towards pain and sufferings, the claimant is entitled to a sum of Rs.10,000/- and towards compensation for loss of amenities and enjoyments in life, the claimant is entitled to a sum of Rs.7,500/-. Thus, the claimant is entitled to a further sum of Rs.30,000/- towards compensation. As noticed above, since he was granted only a sum of Rs.12,000/- by way of compensation, he is entitled to a further sum of Rs.18,000/- by way of compensation.

6. In the result, the appeal is allowed in part. The

compensation granted by the Tribunal is modified granting a further sum of Rs.18,000/- to the claimant by way of compensation. Needless to say, the claimant will be entitled to interest also for the enhanced compensation at the same rate at which the interest was awarded by the Tribunal for the compensation granted, except for the period of delay in filing the appeal, viz., 206 days, as ordered in C.M.Application No.2814 of 2010.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)