

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

MACA.No. 2251 of 2010 ()

OPMV 650/2006 of M.A.C.T.,KOZHIKODE

APPELLANT(S)/CLAIMANT(SUPPL).:

1. YESODHA, W/O. LATE AYYAPPAN, AGED 47 YEARS,
KANHIRATHINKAL VEEDU, THADAPARAMBIL, KUMARANALLOOR
POST, MUKKAM, KOZHIKODE.
2. VISHNU PRASAD(MINOR),
S/O.LATE AYYAPPAN, AGED 15 YEARS, KANHIRATHINKAL VEEDU
THADAPARAMBIL, KUMARANALLOOR, POST
MUKKAM, KOZHIKODE.
3. VINAYA PRASAD(MINOR),
D/O.LATE AYYAPPAN, AGED 12 YEARS, KANHIRATHINKAL VEEDU
THADAPARAMBIL, KUMARANALLOOR, POST
MUKKAM, KOZHIKODE.
4. KANNAYI, W/O.LATE KANNANKUTTY,
AGED 72 YEARS, KANHIRATHINKAL VEEDU, THADAPARAMBIL
KUMARANALLOOR POST, MUKKAM, KOZHIKODE
(APPELLANTS 2 AND 3 ARE THE MINORS REP.BY THE IST APPELLANT
MOTHER).

BY ADV. SMT.K.V.RESHMI

RESPONDENT(S)/RESPONDENTS:

1. SHARAFUDHEEN, S/O. MOHAMMED
THANDUPARAKKAL HOUSE, VANIYAMBALAM POST
MALAPPURAM PIN 679 339.
2. THE ORIENTAL INSURANCE CO.LTD.,
DIVISIONAL OFFICE, SEEMA BUILDING, G.H.ROAD
KOZHIKODE, PIN 673 001.

R2 BY ADV.K.S.SANTHI

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.2251 OF 2010

Dated 2nd March, 2015.

J U D G M E N T

The legal representatives of 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 a coolie. The accident took place on 12.1.2006. The claimant was aged 40 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.22,750/- 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. It is seen that the claimant had sustained various injuries including fracture of spine of scapula. Ext.A2 is the wound certificate. Ext.A3 is the referral OP ticket issued to the claimant from the Medical College Hospital, showing the follow up treatment. Ext.X1 series are the case records maintained at the Medical College Hospital. Ext.X1 indicates that the claimant was undergoing treatment as inpatient in the Medical College Hospital, Kozhikode from 13.1.2006 to 4.2.2006.

5. No document has been produced to prove the income of the claimant. Since the accident took place in the year 2006, in the absence of any evidence, the Tribunal should have reckoned the income of the claimant at Rs.4,500/-. The claimant had undergone treatment as inpatient in the Medical College Hospital for 23 days. The claimant, in the circumstances, is entitled to compensation towards loss of earnings at least for a period of two months. The Tribunal has granted only a sum of Rs.3,500/- towards compensation for loss of earnings. The claimant is, therefore, entitled to a further sum of Rs.5,500/- towards compensation on that head.

Towards bystander's expenses, the claimant has been granted only a sum of Rs.1,000/-. According to me, since the claimant had undergone inpatient treatment for 23 days, he is entitled to a further sum of Rs.3,600/- on that head. Towards extra-nourishment, no compensation is seen granted by the Tribunal. According to me, the claimant is entitled to a sum of Rs.3,000/- towards compensation for extra-nourishment as well. The Tribunal has awarded a sum of Rs.15,000/- to the claimant towards pain and sufferings. In the nature of the injuries sustained and the treatment undergone by the claimant, he has to be granted a further sum of Rs.5,000/- towards compensation for pain and sufferings. Towards loss of amenities and enjoyments in life, the Tribunal has awarded only a sum of Rs.2,000/- to the claimant. In the nature of the injuries sustained by the claimant, I am of the view that he has to be granted a further sum of Rs.8,000/- on this head. Thus, the claimant is entitled to a further sum of Rs.25,100/- towards compensation.

6. 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.25,100/- 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)