

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. 2282 of 2010 ()

OPMV 220/2007 of M.A.C.T.,KOZHIKODE

APPELLANT(S)/PETITIONER:

SREEDHARAN,S/O.LATE PALAN,
CHOLAYIL HOUSE, NAYARKUZHI DESOM, POOLAKKODE
VILLAGE, NAYARKUZHI POST, KOZHIKODE.

BY ADVS.SRI.P.V.KUNHIKRISHNAN
SRI.HANSON.P.MATHEW

RESPONDENT(S)/RESPONDENTS:

1. ISMAIL.T, THERENGAL HOUSE,
KUNNAMANGALAM POST, KOZHIKODE 673 571.
2. ALEEM @ SIYAD,S/O.BICHUTTA,
THOTTACHALORA HOUSE, ANDONA, PARAPPAMPOYIL POST
THAMARASSERY, KOZHIKODE-673 573.
3. THE NEW INDIA ASSURANCE CO.LTD.,
SHAFEER COMPLEX, 6/1975-D, OPPOSITE YMCA
KANNUR, ROAD, KOZHIKODE 673 001.

R3 BY ADV. SRI.RAJAN P.KALIYATH

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.2282 of 2010

Dated 2nd 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 an employee of the Beverages Corporation. The accident took place on 22.1.2005. The claimant was aged 51 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.15,000/- 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.A2 is the wound certificate issued to the claimant from the Medical College Hospital, Calicut. It is recorded in Ext.A2 that the claimant sustained a lacerated wound over the left parietal area of the scalp and a lacerated wound over the left side of chin. Ext.A3 is the treatment certificate of the claimant. The Tribunal noticed that the claimant had undergone treatment as inpatient in the Medical College Hospital from 23.1.2005 to 2.2.2005. It is stated in the claim petition that apart from the injuries sustained in the accident, the false tooth denture of the claimant came down to his oesophagus and it had to be removed by a surgery. The said fact is stated in Ext.A3 treatment certificate.

5. The Tribunal had granted only a sum of Rs.1,000/- towards loss of earnings. The fact that the claimant was an employee of Beverages Corporation is not disputed. The accident took place in the year 2005. In the absence of any evidence to prove the income, the Tribunal should have taken at least Rs.5,000/- as his monthly income and he should have

been granted compensation towards loss of earnings for two months. The claimant is, therefore, entitled to a further sum of Rs.9,000/- towards loss of earnings. Only a sum of Rs.750/- is seen granted by the Tribunal towards compensation for loss of amenities and enjoyments in life. In the nature of the injuries sustained and the treatment undergone by the claimant, he is entitled to a further sum of Rs.7,500/- towards compensation for loss of amenities and enjoyments in life. Despite the fact that the claimant had undergone treatment as inpatient in the Medical College Hospital for 10 days and had undergone a surgery, the Tribunal had granted only a sum of Rs.12,000/- towards pain and sufferings. According to me, the claimant is entitled to a further sum of Rs.5,000/- towards compensation for pain and sufferings. Thus, the claimant is entitled to a further sum of Rs.21,500/- 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.21,500/- 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)