

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

MACA.NO. 2798 OF 2009 ()

AGAINST THE AWARD IN OP(MV)NO.64/2002 OF MACT ALAPPUZHA
DATED 08-05-2007

APPELLANT(S) /PETITIONER:

RAVEENDRAN, S/O.GOVINDAN,
VATTEZHATHU VEEDU, AROOR PANCHAYATH WARD NO.11
CHANDIROOR P.O., CHERTHALA.

BY ADV. SRI.J.OMPRAKASH

RESPONDENT(S) /RESPONDENTS:

1. I.SETHUNATH, S/O.K.JANARDHANAN,
SATHUPURAM, KARUVATTA P.O., ALAPPUZHA.
2. K.BALACHANDRAN, (DELETED), S/O.KUTTAPPAN,
THOPPIL HOUSE, KARUVATTA P.O., ALAPPUZHA.

** RESPONDENT NO.2 IS DELETED FROM THE PARTY ARRAY AT THE RISK
OF THE APPELLANT VIDE ORDER DATED 22.10.2013 IN IA NO.2731
OF 2013 IN MACA NO.2798 OF 2009.

3. THE ORIENTAL INSURANCE CO.LTD.,
BRANCH OFFICE, KAYAMKULAM.

BY ADVS. SRI.MATHEWS JACOB (SR.)
SRI.GEORGE CHERIAN (THIRUVALLA)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

NS

P.B. SURESH KUMAR, J.

M.A.C.A. No.2798 of 2009

Dated this the 5th day of February 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.

2. The claimant was a head load worker. He was aged 52 years at the time of accident. The accident took place on 09.05.2001. He claimed a sum of Rs.1,00,000/- by way of compensation in the proceedings. The Tribunal, on an evaluation of the materials on record, found that the claimant is entitled to only a sum of Rs.39,500/- and an award was accordingly passed for the said amount. Since 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 quantum of compensation granted to him by the Tribunal and hence this appeal.

3. Heard the learned counsel for the claimant and the learned counsel for the insurer.

4. Ext.A4 is the wound certificate. The injuries sustained by the claimant as recorded in Ext.A4 wound

certificate reads thus:

“fracture of the right 1st clavicle vertebra right side, fracture of odontoid and multiple areas of contusions on the neck and right elbow.”

Ext.A5 is the discharge certificate issued from the Ernakulam Medical Centre to the claimant. From Ext.A5, the Tribunal found that the claimant was undergoing inpatient treatment in the said hospital from 09.05.2001 to 14.05.2001.

5. Even though the Tribunal had granted compensation for loss of earnings for a period of six months, the monthly income of the claimant was reckoned only at Rs.1,500/-. According to me, since the accident took place in the year 2001, the monthly income of the claimant should have been reckoned at least at Rs.3,000/-. The claimant is therefore, entitled to a further sum of Rs.9,000/- towards compensation for loss of earnings. It is seen that while calculating the compensation for continuing disability, the income of the claimant was reckoned only at Rs.1,400/-. Since it is found that the monthly income of the claimant is liable to be reckoned at Rs.3,000/-, the claimant is entitled to a further sum of Rs.9,900/- on that head. It is seen that only a sum of Rs.2,000/- is granted towards loss of amenities and enjoyments in life. Having regard to the nature of injuries sustained by the claimant, I am of the view that the claimant is entitled to a

further sum of Rs.8,000/- towards compensation for loss of amenities and enjoyments in life. Despite the aforesaid injuries and the prolonged treatment, the Tribunal had granted only Rs.10,000/- towards pain and sufferings. The claimant is entitled to a further sum of Rs.5,000/- on this head. Thus, the claimant is entitled to a further sum of Rs.31,900/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7.5% 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.

7. In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.31,900/- 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, except for the period of delay in filing the appeal, viz., 496 days as ordered in C.M.Application No.3297 of 2009.

Sd/-
P.B. SURESH KUMAR,
JUDGE