

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. 3056 of 2014 ()

OPMV 760/2009 of M.A.C.T.,KOLLAM

APPELLANT(S)/PETITIONER:

AJITH KUMAR, AGED 50 YEARS
S/O.GOPALAN, MUNDIYAZHIKATHU VEEDU, MAYYANADU P.O.
KOLLAM.

BY ADVS.SRI.PRATHEESH.P
SMT.S.SEETHA

RESPONDENT(S)/3RD RESPONDENT:

THE DIVISIONAL MANAGER,
THE NATIONAL INSURANCE CO.LTD., KOLLAM-691001.

BY ADV. SMT.P.A.REZIYA
BY ADV.SRI.M.A.GEORGE

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.3056 of 2014

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 a newspaper agent. The accident took place on 4.6.2008. The claimant was aged 45 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.35,000/- 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.A7 wound certificate has been produced by the claimant to prove the injuries sustained by him in the accident. Ext.A8 is the discharge certificate produced to prove the hospitalization. The Tribunal noticed that the claimant sustained injuries including fracture of clavicle. The Tribunal also noticed that the claimant had undergone treatment as inpatient in a hospital for three days. The Tribunal granted a sum of Rs.10,080/- towards compensation for continuing disability, reckoning the monthly income of the claimant at Rs.3,000/- and disability at 2%, applying the multiplier '14'. Since the accident took place in the year 2008, according to me, the monthly income of the claimant should have been reckoned at Rs.4,500/-. Thus, the claimant is entitled to a further sum of Rs.5,040/- on that head. The Tribunal has granted a sum of Rs.9,000/- towards compensation for loss of earnings to the claimant for a period of three months, reckoning his monthly income at Rs.3,000/-. According to me, since the accident took place in the year 2008, the monthly income of the claimant should have been reckoned at Rs.4,500/- and thus,

the claimant is entitled to a further sum of Rs.4,500/- towards compensation for loss of earnings. No compensation is seen granted towards loss of amenities and enjoyments in life. According to me, in the nature of the injuries sustained and the treatment undergone by the claimant, he is entitled to a sum of Rs.5,000/- towards loss of amenities and enjoyments in life. The Tribunal has granted only a sum of Rs.12,000/- towards pain and sufferings. According to me, in the facts and circumstances, the said amount is also inadequate. I am of the view that 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.19,540/- towards compensation.

5. In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.19,540/- 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., 464 days, as ordered in C.M.Application No.3513 of 2014.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)