

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. 3079 of 2014 ()

OPMV 308/2009 of M.A.C.T., PALAKKAD

APPELLANT(S)/PETITIONER:

UNNIKRISHNAN, AGED 63 YEARS

S/O.SUKUMARAN, KARAPPOTTA VEEDU, KANNAMBRA P.O.

PALAKKAD DISTRICT.

BY ADV. SRI.LIJU. M.P

RESPONDENT(S)/RESPONDENTS:

1. YAKKOB S.,

S/O.SULAIMAN, MSN MANZIL, NELLIPPADAM

NANMARA, PALAKKAD, (PRESENT ADDRESS) MUNNER COTTAGE

PARAKKANI, NEAR MAX NURSERY GARDEN, KANNUR - 670 001.

2. NATIONAL INSURANCE COMPANY LTD.,

EAST FORT BUILDING, FORT MAIDAN, PALAKKAD - 1.

R2 BY ADV. SMT.SARAH SALVY

R2 BY 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.3079 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 salesman in a toddy shop. The accident took place on 7.11.2008. The claimant was aged 55 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.39,203/- 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.A4 is the wound certificate of the claimant. Ext.A4 indicates that the claimant sustained fracture of medial malleolus[Rt]. Ext.A10 is the treatment certificate issued to the claimant from Crescent Hospital, Palakkad. It is seen from Ext.A10, which was made available to me at the time of hearing, that the claimant was referred to that hospital from Government Hospital, Nenmara and POP was done for the fracture sustained by him. From the said treatment certificate, the Tribunal noticed that the claimant had undergone treatment for one month in connection with the injuries sustained by him.

5. As stated above, the claimant is a salesman in a toddy shop. His monthly income was reckoned by the Tribunal only at Rs.3,500/- for granting compensation towards loss of earnings. 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/-. It is seen that the claimant was granted compensation for loss of earnings for a period of four months. In the circumstances, the claimant is entitled to a

further sum of Rs.4,000/- towards loss of earnings. The Tribunal has granted Rs.10,000/- towards compensation for pain and sufferings. According to me, in the nature of the injuries sustained and the treatment undergone by the claimant, he is entitled to a further sum of Rs.5,000/- towards compensation on that head. Towards loss of amenities and enjoyments in life, it is seen that the Tribunal has granted only a sum of Rs.10,000/-. On an evaluation of the facts of the case, I am of the view that the claimant is entitled to a further sum of Rs.5,000/- towards compensation for loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.14,000/- towards 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.14,000/- 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., 302 days as ordered in C.M.Application No.3533 of 2014.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)