

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

MACA.No. 2531 of 2010 ()

OPMV 1288/2006 of M.A.C.T.,KOLLAM

APPELLANT(S)/PETITIONER:

AMBIKA, AGED 40 YEARS,
D/O.RAMANIKUTTY AMMA, GANGA SADANAM, KURUMANDEL
PARAVOOR.

BY ADV. SRI.PRATHEESH.P

RESPONDENT(S)/RESPONDENTS :

THE DIVISIONAL MANAGER,
NEW INDIA ASSURANCE CO.LTD., KOLLAM-691 001.

BY ADV. SRI.LAL GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.2531 of 2010

Dated 12th February, 2015.

J U D G M E N T

The claimant in an original 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 tailor. The accident took place on 21.5.2006. The claimant was aged 40 years at the time of accident. A sum of Rs.1,00,000/- was claimed in the original petition by way of compensation for the injuries sustained by the claimant. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.61,700/- by way of compensation 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.A6 is the wound certificate of the claimant.

Ext.A7 is the discharge card issued to the claimant from Bishop Benziger Hospital, Kollam. The Tribunal noticed that she sustained fracture of her left forearm. She was treated as inpatient in the said hospital for six days. Ext.A9 is the disability certificate issued to the claimant by Dr.J.R.Jagajeev, Assistant Professor of Orthopedics, Medical College Hospital, Thiruvananthapuram to the effect that the claimant has sustained 11% permanent disability.

5. A sum of Rs.4,000/- was granted by the Tribunal to the claimant by way of compensation towards loss of earnings for a period of two months, reckoning her monthly income at Rs.2,000/-. As noticed above, the accident took place in the year 2006. In the nature of the injuries sustained by the claimant, according to me, she is entitled to compensation for loss of earnings for a period of two months, reckoning her monthly income at Rs.4,500/-. If the compensation for loss of earnings is computed for a period of two months, reckoning the monthly income at Rs.4,500/-, the claimant is entitled to a further sum of Rs.5,000/- towards compensation on that head. She was also granted a sum of Rs.21,600/- towards compensation for continuing disability, reckoning her monthly

income at Rs.2,000/- and disability at 6%, applying the multiplier '15'. Since I have found that the monthly income of the claimant is liable to be reckoned at Rs.4,500/-, she will be entitled to a further sum of Rs.27,000/- towards compensation on that head. Thus the claimant is entitled to a further sum of Rs.32,000/- 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.32,000/- 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., 349 days, as ordered in C.M.Application No.3291 of 2010.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)