

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. 2546 of 2010 ()

OPMV 873/1999 of M.A.C.T., MANJERI

APPELLANT(S)/CLAIMANT:

VASU, AGED 44 YEARS,
S/O.KELAN, MANCHERITHODI HOUSE, MELATTOOR P.O.
MALAPPURAM.

BY ADV. SRI.P.SAMSUDIN

RESPONDENT(S)/RESPONDENTS :

1. GIRISAN, S/O.GOVINDAN,
MELEPPULICKAL HOUSE, CHOLAKKULAM, MELATTOOR P.O.
MALAPPURAM.

2. M.P.RAJAN, S/O.GOVINDAN,
MELEPPULICKAL HOUSE, CHOLAKKULAM, MELATTOOR P.O.
MALAPPURAM.

3. UNITED INDIA INSURANCE CO.LTD.,
PERINTHALMANNA.

R3 BY ADV. SRI.P.MURALEEDHARAN

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.2546 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 a coolie. The accident took place on 6.3.1998. The claimant was aged 35 years at the time of accident. A sum of Rs.75,000/- 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.60,700/- 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 of the claimant. Ext.A3 is the discharge summary. The Tribunal noticed that the claimant sustained various injuries in the accident including fracture and dislocation of right hip. The Tribunal also noticed that the claimant was undergoing treatment as inpatient in a hospital for 16 days. The claimant had produced medical bills amounting to Rs.29,283/- Ext.X1 is the disability certificate issued to the claimant by the Medical Board attached to the District Hospital, Manjeri. In Ext.X1, the disability of the claimant was assessed at 2%.

5. Towards continuing permanent disability, the Tribunal had reckoned the monthly income of the claimant at Rs.1,800/- and worked out the compensation applying the multiplier '16'. According to me, though the accident was in the year 1998, the monthly income of the claimant should have been reckoned by the Tribunal at Rs.2,500/-. If the compensation payable to the claimant for continuing permanent disability is computed reckoning his monthly income at Rs.2,500/-, the claimant will be entitled to a further sum of

Rs.2600/- on that head. The Tribunal had granted only a sum of Rs.5,400/- to the claimant towards loss of earnings for a period of three months, reckoning his monthly income at Rs.1,800/-. Since I have taken the view that the monthly income of the claimant should be reckoned at Rs.2,500/-, the claimant will be entitled to a further sum of Rs.2,100/- on that head. No compensation is seen granted to the claimant towards loss of amenities and enjoyments in life. Having regard to the nature of injuries sustained by the claimant and the treatment undergone by him, I am of the view that the claimant is entitled to a sum of Rs.10,000/- towards loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.14,700/- 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.14,700/- 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., 2285 days as ordered in C.M.Application No.3309 of 2010.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgS

(true copy)