

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

MACA.No. 2674 of 2010 ()

OPMV 963/2006 of M.A.C.T., MANJERI

APPELLANT(S)/PETITIONER IN THE OPMV AND PETITION:

KUNHAMMA ABRAHAM @ KUNHUNHAMMA ABRAHAM,
AGED 48 YEARS, W/O.ABRAHAM, THAIPARAMBIL HOUSE
VADAKKUMPADAM, CHUNKATHARA PO, MUTTIKADAVU
MALAPPURAM DISTRICT.

BY ADVS.SMT.LATHA PRABHAKARAN
SRI.K.M,JAMALUDHEEN

RESPONDENT(S)/RESPONDENTS IN OPMV AND PETITION:

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1. UNNIKRISHNAN,S/O.KELU,TARIYAN HOUSE,
KAPPIL , WANDOOOR PO, NILAMBUR
MALAPPURAM DISTRICT, (DRIVER) 679 328.
 2. SURESH.K,S/O.AYYAPPAN,PADINHARANPOYIL
HOUSE, MANNATHIPOYIL, POOKKOTTUMPADAM PO
NILAMBUR, MAMALLPURAM DISTRICT(OWNER) 679 332.
 3. UNITED INDIA INSURANCE CO.LTD.,
A.M.BUILDING, BRANCH OFFICE, NILAMBUR PO
MALAPPURAM DISTRICT(INSURER) 679 329.

R3 BY ADV. SRI.UNNI. K.K. (EZHUMATTOOR)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.2674 OF 2010

Dated 6th April, 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 tailor. The accident took place on 28.11.2005. The claimant was aged 44 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.29,700/- 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 produced by the claimant before the Tribunal. The Tribunal found that the claimant sustained a lacerated wound over the left forehead, a lacerated wound on the right foot, fracture of IV meta tarsal right etc. The Tribunal also found that the claimant had undergone inpatient treatment in a hospital for ten days for the injuries sustained in the accident.

5. The Tribunal granted only a sum of Rs.8,000/- to the claimant towards loss of earnings for a period of four months, reckoning her monthly income at Rs.2,000/-. Since the accident took place in the year 2005, according to me, the Tribunal should have reckoned the monthly income of the claimant at least at Rs.4,500/-. The claimant is, therefore, entitled to a further sum of Rs.10,000/- towards loss of earnings. As noticed above, the claimant had undergone inpatient treatment in a hospital for the injuries sustained by her, for a period of ten days. It is seen that after the discharge from the hospital, she had to go to the hospital again on 16 occasions for review of the treatment. In such circumstances,

the compensation of Rs.7,000/- granted to the claimant towards pain and sufferings is highly inadequate. The claimant is, therefore, entitled to a further sum of Rs.8,000/- towards pain and sufferings. It is seen that no compensation is granted by the Tribunal towards loss of amenities and enjoyments in life. Having regard to the facts and circumstances, I am of the view that the claimant is entitled to a sum of Rs.5,000/- towards compensation for loss of amenities and enjoyments in life as well. Towards extra nourishment and bystanders' expenses, only a sum of Rs.1,000/- is seen granted. Since the accident took place in the year 2005, according to me, the claimant should have been granted at least Rs.2,500/- towards bystanders' expenses for the ten days hospitalisation. Likewise, in the nature of injuries sustained and the treatment undergone by the claimant, she should have been granted at least a sum of Rs.2,000/- towards extra nourishment. The claimant is therefore entitled to a further sum of Rs.3,500/- on those heads. Thus, the claimant is entitled to a further sum of Rs.26,500/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7% 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.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.26,500/- 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., 190 days as ordered in C.M.Application No.3493 of 2010.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)