

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.186 of 2012

**(OP(MV)NO.441/2004 OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,
MAVELIKKARA DATED 16-08-2011).**

APPELLANT/PETITIONER:

**FIROZ,S/O.MYTHEENKUNJU RAWTHER,
VALLYATHU HOUSE,THEKKUM MURI,
THAMARAKKULAM VILLAGE.**

**BY ADVS.SRI.R.PADMAKUMAR
SRI.P.ARAVIND**

RESPONDENTS/RESPONDENTS:

- 1. SURESHKUMAR,S/O.VASUDEVAN ACHARY,
PANACKAL HOUSE,KEEZHCHERIMEL MURI,
CHENGANNUR-689121.**
- 2. AJOY L.S.,LEKSHMI SADANAM (THIRUVONAM),
KIZHAKKENADA,CHENGANNUR-689121.**
- 3. M/S.NEW INDIA ASSURANCE CO.LTD.
BRANCH OFFICE,POOVATHU BUILDING,
M.C.ROAD,CHENGANNUR-689121.**

**R3 BY ADVS.SRI.K.C.SANTHOSHKUMAR
SRI.PMM.NAJEEB KHAN
BY SRI.A.A.ZIYAD RAHMAN**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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P.B.SURESH KUMAR, J.

M.A.C.A.No.186 OF 2012

Dated this the 2nd day of March, 2015

JUDGMENT

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. In the claim petition, it is alleged that the claimant had sustained injuries in a motor accident took place on 25.10.2003. It is also alleged that damage was caused to the vehicle ridden by the claimant at the time of accident. A total sum of Rs.50,000/- was claimed in the petition by way of compensation, of which Rs.29,000/- was towards the damage caused to the vehicle. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.9,600/- and accordingly, an award was passed for the said amount. The said amount represents the compensation payable to the claimant for the injuries sustained by him. No compensation was awarded for the damage caused to the vehicle. The claimant is aggrieved by the said award and hence this

appeal.

3. Heard the learned counsel for the claimant and the learned counsel for the insurer.

4. As stated above, the appellant claimed a sum of Rs.29,000/- towards compensation for the damage caused to the vehicle. Ext.A9 is the copy of the report of the Surveyor who assessed the loss caused to the vehicle of the claimant. The Tribunal though noticed that the Surveyor had assessed the loss caused to the vehicle at Rs.18,174/-, no compensation was granted on that head for the reason that there was no claim on that head in the claim petition. A copy of the claim petition was made available to me by the counsel for the appellant. It is seen that the claimant had specifically stated in the claim petition that damage was caused to the vehicle in which he was riding at the time of the accident. The said fact was not disputed by the counsel for the insurer also. In the circumstances, since the Tribunal had not considered the claim raised by the claimant on this head, I am of the view that the matter has to be considered afresh by the Tribunal.

In the result, the impugned award to the extent it declined compensation to the claimant for the damage caused to the vehicle is

set aside and the Tribunal is directed to consider the claim for compensation for the damage caused to the vehicle afresh, after affording the parties an opportunity of hearing. Parties shall appear before the Tribunal on 6.4.2015.

P.BSURESH KUMAR, JUDGE.

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