

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. 512 of 2012 ()

OPMV 995/2004 of MACT VADAKARA

APPELLANT(S)/PETITIONER :

RIZNI(MINOR) AGED 9 YEARS

DATE OF BIRTH-17/8/1995

REPRESENTED BY MOTHER/NEXT FRIEND ZUHARA K.V.

W/O.ABDULLA, PUDIYA VEETIL HOUSE, VILAYATTOOR AMSOM

ELAMBILAD DESOM, VILAYATTOOR, IRINGATHY P.O. - 673 523.

BY ADV. SRI.ZUBAIR PULIKKOOL

RESPONDENT(S)/RESPONDENTS :

1. T.P.RIYAS

S/O.MOIDEEN, THEKKAPARAYIKUNI HOUSE

P.O.PAYYOLI-673 523, KOYILANDY TALUK.

2. M.PRAVEENKUMAR, AGED 28 YEARS

S/O.PRABAGARAN KULAVATANKAL

H.O.MEPPAYYUR , KOYILANDY 673 523.

3. M/S.ORIENTAL INSURANCE CO. LTD., BRANCH OFFICE,

SREENIDHI BUILDING, NARAYANA NAGARAM, VATAKARA - 673 101.

R3 BY ADV. SRI.M.JACOB MURICKAN

R3 BY ADV.SRI.GEORGE CHERIAN (THIRUVALLA)

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.512 of 2012

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 was aged 9 years at the time of the accident. The accident took place on 2.1.2004. 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.30,054/- 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 accident register-cum-wound certificate of the claimant. Ext.A3 is the discharge summary issued to the claimant from the hospital where she was admitted and treated as an inpatient. It is seen that the claimant sustained compound comminuted fracture of both bones of left leg. It is also seen that she was under treatment as an inpatient in a hospital for five days. The Tribunal has granted only a sum of Rs.15,000/- towards compensation for pain and sufferings. According to me, in the nature of the injuries sustained by the claimant and the treatment undergone by her, she is entitled to a further sum of Rs.5,000/- towards compensation for pain and sufferings. No compensation is seen awarded towards loss of amenities and enjoyments in life. Instead, it is seen that a sum of Rs.3,000/- is granted as compensation towards mental shock and inconvenience suffered by her. Having regard to the injuries sustained by the claimant and the treatment undergone by her, I am of the view that the claimant has to be granted a further sum of Rs.12,000/- towards loss of amenities and enjoyments in life. It is seen that no compensation is granted towards extra-nourishment, the

claimant is entitled to a sum of Rs.2,000/- towards extra-nourishment as well. Thus, the claimant is entitled to a further sum of Rs.19,000/- towards compensation.

5. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 6% 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.19,000/- 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., 1728 days as ordered in C.M.Application No.644 of 2012.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)