

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

MACA.No. 565 of 2012 (B)

**OP.(MV)NO. 690/2007 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,
OTTAPPALAM**

APPELLANT/PETITIONER :-

**ANIL KUMAR, S/O.ACHUTHAN,
MULLAKKAPARAMBIL HOUSE,
MADAVAKKARA P.O.,
CHITTISSERY, THRISSUR .**

BY ADV. SRI.SHEJI P.ABRAHAM

RESPONDENTS/RESPONDENTS :-

- 1. PRADEEP, S/O.GOPI,
KALPPUZHA HOUSE,
SIVAJI NAGAR, MUKKATTUKARA,
THRISSUR, PIN - 680 320.
(RIDER OF KL 45-8353 MOTORCYCLE)**
- 2. VIJEESH K.V., S/O.VIJAYAN,
KUNDAPARAMBIL HOUSE,
CHITTISSERY P.O., THRISSUR,
PIN - 680 318.
(OWNER OF KL 45-8353 MOTORCYCLE)**
- 3. UNITED INDIA INSURANCE COMPANY LIMITED,
PARK HOUSE BUILDING,
2ND FLOOR, ROUND NORTH,
THRISSUR , PIN - 680 303.
POLICY NO.100600/31/06/01/000242725
VALID FROM 30/1/2007 TO 29/1/2008**

**R3 BY ADV. SRI.N.S.MUHAMMED USMAN
R3 BY SRI.A.A.ZIYAD RAHMAN, SC**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

P.B.SURESH KUMAR, J.

M.A.C.A.No.565 of 2012

Dated this the 17th 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. The claimant is a salesman. The accident took place on 13.05.2007. The claimant was aged 24 years at the time of accident. A sum of ₹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 ₹49,500/- 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. The Tribunal found that the claimant sustained a comminuted fracture of right radius and a lacerated wound on his right leg in the accident. Ext.A8 is the copy of the discharge summary issued to the claimant from Aswini Hospital, Ottappalam. The Tribunal found that the claimant was admitted in the said hospital for treatment in connection with the injuries sustained by him on 13.05.2007 and discharged only on 18.05.2007. It is seen from the copy of the evidence tendered by the claimant in the proceedings before the Tribunal which was made available to me at the time of hearing that the claimant had undergone a surgical procedure also in the course of the treatment.

5. As noticed above, the claimant is a salesman. Only a sum of ₹4,000/- is seen granted towards loss of earnings. Since the accident took place in the year 2007, in the nature of the injuries sustained by him, I am of the view that the claimant is entitled to compensation for loss of earnings at least for a period of two months reckoning his monthly income at Rs.5,000/-.

The claimant is therefore entitled to a further amount of ₹6,000/- on that head. The Tribunal granted only a sum of ₹12,000/- to the claimant towards pain and sufferings. In the nature of injuries sustained by him, according to me, the claimant is entitled to a further sum of Rs.8,000/- towards pain and sufferings. Though the claimant had produced the disability certificate issued by the Doctor who had treated him at the Aswini hospital, Thrissur, the Tribunal did not act upon the said disability certificate for the reason that the Doctor was not examined. But, the fact remains that the claimant had sustained a comminuted fracture of right radius. The fracture sustained by the claimant would certainly affect his earning capacity. In the above circumstances, I am of the view that a consolidated amount should be paid to the claimant by way of compensation for continuing the disability sustained by him in the accident. On an evaluation of the materials on record, I am of the view that the claimant is entitled to a sum of ₹10,000/- towards compensation for continuing the disability. Thus, the

claimant is entitled to a further sum of ₹24,000/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 8% 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.24,000/- 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., 287 days as ordered in C.M.Application No.697 of 2012.

Sd/-
P.B.SURESH KUMAR
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE