

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

MACA.No.1053 of 2012

**(OP(MV)NO.1233/2009 OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,
KOZHIKODE DATED 13.05.2010).**

...

APPELLANT/PETITIONER:

**JANU,W/O.CHATHUKUTTY (LATE),
CHEVAMPUNATHIL HOUSE,
CHELANNUR,KAKKUR POST,KOZHIKODE.**

BY ADV. SMT.K.V.RESHMI

RESPONDENTS/RESPONDENTS:

- 1. BALAN.K.K,S/O.APPARI,B.J.NOVAS,P.O.PC.PALAM,
NARIKKUNI,KOZHIKODE-673585.**
- 2. BIJESH.B,S/O.BALAN.K.K.,B.J.NOVAS,
P.O.PC.PALAM,NARIKKUNI,KOZHIKODE-673585.**
- 3. THE ORIENTAL INSURANCE CO.LTD.,
DIVISIONAL OFFICE-II,PRAMOD BUILDING,
CHEROOTY ROAD,KOZHIKODE-673001.**

**R1,R2 BY ADVS.SRI.NOEL JOSEPH
SMT.MERIL MUTHU P.JOHN
SRI.K.S.SHAIJU**

**R3 BY ADVS.SRI.GEORGE CHERIAN (THIRUVALLA)
SRI.A.K.RAMASESHADRINATHAN.**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

P.B.SURESHKUMAR, J.

M.A.C.A.No.1053 OF 2012

Dated this the 20th day of February, 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 accident took place on 21.6.2009. The claimant was aged 66 years at the time of accident. 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.14,634/- and accordingly an award was passed for the said amount. Since the vehicle was not covered by a policy insurance at the time of the accident, the owner and driver of the vehicle were directed to satisfy the award. Aggrieved by the inadequacy of the compensation, the claimant has preferred this appeal.

3. Heard the learned counsel for the appellant and the learned counsel for the respondents.

4. Ext.A2 is the wound certificate of the claimant. Ext.A3 is the reference card issued to the claimant from the hospital where she was admitted and treated for the injuries sustained in the accident for seven days. It is seen that claimant had sustained various injuries including fracture of the lower end of right radius.

5. Towards loss of amenities and enjoyments in life, the Tribunal has granted only a sum of Rs.1,000/- as compensation. On an evaluation of the nature of the injuries sustained by the claimant, I am of the view that the claimant has to be granted a further sum of Rs.9,000/- on that head. A sum of Rs.10,000/- was granted by the Tribunal as compensation towards pain and sufferings. In the nature of the injuries sustained by the claimant and the treatment undergone by her, the claimant has to be granted a further sum of Rs.5,000/- towards compensation on that head. Towards extra nourishment, it is seen that the Tribunal has granted only a sum of Rs.200/-. Likewise, towards bystander's expenses, the Tribunal granted only a sum of Rs.700/-. Considering the nature of the injuries sustained by the claimant and the treatment undergone by her, she is entitled to a further sum of

Rs.1,800/- towards extra nourishment and a further sum of Rs.1,000/- towards bystander's expenses. Thus, the claimant is entitled to a further sum of Rs.16,800/- towards compensation.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.16,800/- 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., 660 days as ordered in C.M.Application No.1293/2012.

P.B.SURESHKUMAR, JUDGE

jes