

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR**

**TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937**

**MACA.No. 1452 of 2012**  
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**O.P(MV)NO.661/2006 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, MANJERI**  
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**APPELLANT(S)/PETITIONER :**  
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**MUNEER,  
S/O.MOHAMMED, KARUVATHIL HOUSE, PULLUR,  
KARUVAMBRAM P.O, MANJERI, MALAPPURAM DISTRICT.**

**BY ADV. SRI.K.VIDYASAGAR**

**RESPONDENT(S)/RESPONDENTS :**  
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- 1. ABDUL GAFOOR P.V.,  
S/O.USMAN, PUTHIYAVEETIL, PERAKAMANNA P.O,  
OTHAYI, EDAVANNA, MALAPPURAM DISTRICT- 676 541.**
- 2. HASKER,  
S/O.ALI, VADAKKAN HOUSE, PERAKAMANNA P.O,  
OTHAYI, EDAVANNA, MALAPPURAM DISTRICT- 676 541.**
- 3. THE NEW INDIA ASSURANCE COMPANY LIMITED,  
P.B.NO 43, PDC BANK BUILDING, HPO ROAD, SULTHAN PET,  
PALAKKAD 678 001,**
- SUPPL.4. THE UNITED INDIA INSURANCE COMPANY LIMITED,  
BRANCH OFFICE, PALAKKAD- 678 001.**
- SUPPL.5. THE PRESIDENT,  
PALAKKAD DISTRICT AUTORIKSHAW DRIVERS CO-OPERATIVE  
SOCIETY LIMITED, NO.P606, G.B ROAD, PALAKKAD- 678 001.**

**R3 BY ADV. SRI.A.A.ZIYAD RAHMAN  
ADV.SRI.A.C.DEVY**

**R4 BY ADV. SRI.M.HARISHARMA  
ADV. SRI.JOHN JOSEPH VETTIKAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY  
HEARD ON 04-08-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

Msd.

**P.B.SURESH KUMAR, J.**

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**M.A.C.A.No.1452 of 2012**

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**Dated this the 4<sup>th</sup> day of August, 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 23.4.2005. The claimant was aged 21 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.50,119/- and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance

policy, 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 claimant sustained a crush injury and fracture of both bones of his right leg in the accident. He had undergone inpatient in the hospital for ten days. It is seen that in the course of treatment, the claimant had undergone a surgical procedure also. Ext.X1 is the certificate issued to the claimant by the Medical Board attached to the District Hospital, Manjeri which certifies 6% permanent disability for the claimant. The compensation due to the claimant needs to be determined on the basis of the aforesaid facts and findings.

5. As noticed above, the accident took place in the year 2005 and the claimant was working as a salesman in a shop at the relevant time. The Tribunal granted compensation towards loss of earnings to the claimant only

for a period of three months, reckoning his monthly income at Rs.2,500/-. Since the accident took place in the year 2005, the monthly income of the claimant should have been reckoned by the Tribunal at Rs.4,500/-. The claimant is, therefore, entitled to a further sum of Rs.6,000/- towards loss of earnings. No compensation is seen granted to the claimant towards extra nourishment. According to me, having regard to the facts and circumstances of the case, the claimant is entitled to a sum of Rs.2,000/- towards extra nourishment. Towards pain and sufferings, only a sum of Rs.10,000/- is seen granted. Having regard to the nature of injuries sustained by the claimant and the prolonged hospitalization, I am of the view that the claimant is entitled to further sum of Rs.10,000/- on that head. Towards loss of amenities and enjoyments in life, only a sum of Rs.15,000/- is seen granted by the Tribunal. According to me, in the light of Ext.XI disability certificate issued by the competent authority, a copy of which has been produced before me,

the claimant is entitled to compensation for permanent disability/loss of earning, reckoning his monthly income at Rs.4,500/- and disability at 6%, applying the multiplier 17. The compensation payable to the claimant towards continuing permanent disability on that basis comes to Rs.55,080/- ( $4500 \times 17 \times 12 \times 6 / 100$ ). Since the claimant had been granted a sum of Rs.15,000/- towards loss of amenities and enjoyments in life, he is entitled to a further sum of Rs.40,080/- on that head. Thus, the claimant is entitled to a further sum of Rs.58,080/- towards compensation.

6. In the result, the appeal is allowed in part. The compensation granted by the Tribunal to the claimant is modified granting a further sum of Rs.58,080/- 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., 287 days as ordered in C.M.Application No.1728 of 2012.

Since the claimant had limited the claim to Rs.75,000/- in the claim petition, he is liable to pay the balance court fee payable on the claim petition before executing the modified award in his favour.

**P.B.SURESH KUMAR, JUDGE.**

smm