

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

MACA.No. 23 of 2015 ()

AGAINST THE AWARD IN OPMV 129/2011 of ADL.D.C. & MACT,
THODUPUZHA, DATED 13.6.2014.

APPELLANT/PETITIONER:-

KRISHNA PRIYA,
D/O.SURESH, THEKKEKUTTU HOUSE, PALLIKAVALA BHAGAM
CHELACHUVADU KARA, KANJIKUZHY VILLAGE.

BY ADVS.SRI.MATHEW JOHN (K)
SRI.DOMSON J.VATTAKUZHY

RESPONDENTS/RESPONDENTS:-

1. JINESH MATHEW,
OONNANAL HOUSE, UPPUTHODU KARA, CHALIKKADA BHAGAM
UPPUTHODU VILLAGE & POST - 686 001.

2. ICICI LOMBARD MOTOR INSURANCE COMPANY LTD.,
KANNANKERI ESTATE, MARINE DRIVE, SHANMUGHAM ROAD
KOCHI - 682 016.

R2 BY ADV. SRI.R.AJITH KUMAR.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A.No.23 of 2015.

Dated this the 23rd day of 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 a student. She was aged 20 years at the time of accident. The accident took place on 6.7.2009. A sum of Rs.65,500/- 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.29,460/- 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 had ligament injuries in the accident. Ext.A14 is the wound certificate produced by the claimant. Ext.A15 is the medical certificate and Ext.A16 is the discharge summary issued to the claimant from MOSC Medical College Hospital, Kolencherry. Ext.A17 is the certificate issued by the Medical Board attached to the Taluk Head Quarters Hospital, Thodupuzha. In Ext.A17, the Medical Board assessed the disability of the claimant at 5%. It is seen that despite Ext.A17 disability certificate, the Tribunal had not granted compensation to the claimant for continuing disability. As the claimant was not earning at the time of accident, compensation should have been granted for continuing disability based on a notional income. Since the accident took place in the year 2009, I am of the view that the notional income of the claimant has to be reckoned at Rs.3,000/- per month. The claimant is therefore, entitled to a sum of Rs.32,400/- towards compensation for continuing

disability, applying the multiplier '18'. Though a sum of Rs.7,500/- was claimed towards compensation for loss amenities and enjoyments in life, only a sum of Rs.5,000/- is seen granted towards compensation on that head. In the nature of injuries and the disability sustained by the claimant, I am of the view that the claim made by her for loss of amenities and enjoyment in life was just and reasonable. The claimant is, therefore, entitled to a further sum of Rs.2,500/- towards compensation for loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.34,900/- towards compensation.

5. 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.34,900/- 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.

Sd/-P.B.SURESH KUMAR, JUDGE.

Kvs/-

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PA TO JUDGE.