

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

MACA.No. 109 of 2013 ()

**OP(MV) NO. 691/2002 OF IIND ADDL.MOTOR ACCIDENT CLAIMS TRIBUNAL COURT,
KOLLAM DATED 21-12-2009**

APPELLANT/PETITIONER :

**NAVAS, AGED 28 YEARS
S/O.ABUBEKAR KUNJU, KALEELIL KIZHAKKATHIL VEEDU
MENAMPALLY, MUKUNDAPURAM P.O., CHAVARA
KOLLAM.**

BY ADV. SRI.THYPARAMBIL THOMAS THOMAS

RESPONDENTS / RESPONDENTS :

- 1. THE MANAGING DIRECTOR
KERALA STATE ROAD TRANSPORT CORPORATION, K.S.R.T.C. BHAVAN
THIRUVANANTHAPURAM-695 001.**
- 2. K.T.SOMAN
KONTAYIL THARAYIL, KATTANAM, PALLICKAL
ALAPPUZHA DISTRICT-690 503. (*DELETED)**
- 3. V.VENUKUMAR
S/O.VASUDEVAN PILLAI, THEKKINAZHIKATHU, KIZHAKKATHIL
KOTTAKKAM, CHAVARA, KOLLAM-691 583.**
- 4. THAJUDEEN KUNJU A.,
S/O.ABDUL RAHUMAN KUNJU, VELIYIL VEEDU, CHOLA
PANMANA, KOLLAM-691 583.**
- 5. DIVISIONAL MANAGER
UNITED INDIA INSURANCE CO. LTD., S.K.P. BUILDING
KOLLAM-691 001.**

***RESPONDENT NO. 2 IS DELETED FROM THE PARTY ARRAY AS PER ORDER
DATED 27/2/2015 IN IA NO. 706/15 IN MACA 109/13.**

**R1 BY ADVS. SRI.BABU JOSEPH KURUVATHAZHA, SC
SMT.BIMALA BABY, SC, KSRTC
R5 BY ADV. SRI.K.KESAVANKUTTY
BY ADV.JOHN JOSEPH VETTIKAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

P.B.SURESH KUMAR, J.

M.A.C.A.No.109 OF 2013

Dated this the 9th 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 engaged in the trade of milk products. The accident took place on 5.9.2001. The claimant was aged 19 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.12,258/- 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.A4 is the wound certificate and Ext.A6 is the discharge certificate. From Exts.A4 and A6, Tribunal found that the claimant sustained various injuries including a fracture of clavicle bone. The Tribunal also noticed that the claimant had undergone treatment as inpatient in a hospital for a period of 12 days.

5. The accident took place while the claimant was accompanying his goods in a pick up van. As such, it cannot be disputed that the claimant was not employed. No compensation is seen granted towards loss of earnings. Since it has come out that the claimant was undergoing inpatient treatment for 12 days, I am of the view that the Tribunal should have granted compensation for loss of earnings at least for a period of two months. Since the accident took place in the year 2001, the income of the claimant can be reckoned as Rs.4000/- for the purpose of arriving at the compensation payable to him for loss of earnings. The claimant is, therefore, entitled to a sum of Rs.8,000/- towards loss of earnings. It is not disputed that the claimant had sustained a fracture of clavicle bone and had undergone inpatient

treatment for a period of 12 days. The sum of Rs.12,000/- claimed by him towards compensation for pain and sufferings was only reasonable. The Tribunal has granted only a sum of Rs.5,000/- on that head. He is, therefore, entitled to a further sum of Rs.7,000/- towards compensation for pain and sufferings. No compensation is seen granted towards the loss of amenities and enjoyments in life. In the nature of the injuries sustained by the claimant, I am of the view that he is entitled to a sum of Rs.5,000/- towards compensation for loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.20,000/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7.5% 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.20,000/- 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., 988 days as ordered in C.M.Application No.112 of 2013.

P.B.SURESH KUMAR, JUDGE

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As per the order dated 31/07/2015 in R.P.622/2015 in M.A.C.A.109/2013, the statement "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" occurring in paragraph 2 of the judgment dated 09/03/2015 in M.A.C.A.No.109/2013 is deleted and it is made clear that the enhanced compensation granted by this court also shall be paid by the second respondent in the Review Petition (first respondent in M.A.C.A.).

Sd/-
Registrar (Judicial)