

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. 290 of 2015 (E)

**O.P.(MV)NO. 1674/2002 OF THE PRINCIPAL MOTOR ACCIDENTS CLAIMS
TRIBUNAL, KOZHIKODE**

APPELLANT/PETITIONER :-

**JAMSHEERA, D/O.ABDUL LATHEEF,
RESIDING AT VALIYAKATH HOUSE,
CHANDUKANDY PARAMBA,
MEENCHANTHA RAILWAY GATE,
ARAKINAR (PO), KOZHIKODE.**

BY ADV. SMT.K.V.RESHMI

RESPONDENT :-

**THE NATIONAL INSURANCE CO. LTD.,
P.B.NO.811, NOOR COMPLEX,
MAVOOR ROAD, KOZHIKODE - 673 001.**

**BY ADVS. SRI.P.G.GANAPPAN
SRI.M.A.GEORGE**

**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.290 of 2015

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 was a student at the time of accident. The accident took place on 16.03.2002. The claimant was aged 11 years old. 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 ₹18,508/- 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. As noticed above, the claimant was 11 years old at the time of accident. She was examined before the Tribunal as PW1. The Tribunal found from the evidence tendered by the claimant that she sustained fracture of both bones of her right leg in the accident and she was under treatment at Asoka Hospital, Calicut. Plaster was applied on her initially at the said hospital. The Tribunal also found that the claimant was discharged later from the Asoka Hospital, Calicut and admitted in the Medical College Hospital, Calicut and plaster was again applied. Ext.A2 is a wound certificate issued to the claimant from the Medical College Hospital, Calicut. The Tribunal has granted a sum of ₹8,000/- to the claimant towards compensation for pain and sufferings. In the nature of the injuries sustained by the claimant and the treatment undergone by her, I am of the view that the claimant is entitled to a further sum of ₹7,000/- towards compensation for pain and sufferings. Since no compensation is awarded for continuing disability, I am of the view that the claimant has to be adequately compensated under the head loss of amenities and enjoyments in life. Only a sum of ₹3,000/- is seen granted

by the Tribunal to the claimant towards compensation of loss of amenities and enjoyment in life. In the nature of the injuries sustained by the claimant and the treatment undergone by her, I am of the view that the claimant is entitled to a further sum of ₹5,000/- towards loss of amenities and enjoyments in life. No compensation is seen granted to the claimant towards extra nourishment. According to me, the claimant is entitled to a sum of ₹3,000/- towards extra nourishment as well. Thus, the claimant is entitled to a further sum of ₹15,000/- towards compensation.

5. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 6% 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.

6. In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.15,000/- 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., 2699 days as ordered in C.M.Application No.327 of 2015.

Sd/-
P.B.SURESH KUMAR
JUDGE

rkj

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P.A. TO JUDGE