

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. 462 of 2015 ()

**(AGAINST THE AWARD IN OP(MV).NO. 215/2011 OF ADDL.MOTOR ACCIDENTS
CLAIMS TRIBUNAL, NORTH PARAVUR DATED 13-08-2014)**

APPELLANT/PETITIONER:

**SAJI @ SAJI ANTONY, S/O.OUSEPPACHAN,
MALIAKKAL HOUSE, PUTHUVYPPU P.O.,
AZHEEKAL, KOCHI TALUK.**

**BY ADVS.SRI.A.N.SANTHOSH
SRI.G.BALAMURALEEDHARAN (PARAVUR)**

RESPONDENT(S)/RESPONDENTS 1 AND 3:

- 1. ANTONY,
S/O.JOSEPH, H.NO. 1/331, KAITHAVALPPIL HOUSE,
PUTHUVYPPU P.O., AZHEEKAL, KOCHI TALUK - 682 508.**
- 2. NEW INDIA ASSURANCE COMPANY LTD.,
BRANCH OFFICE, THARAYIL CHAMBERS, VYTILA P.O.,
ERNAKULAM - 681 019.**

**R2 BY ADV. SRI.N.S.NAJEEB
SRI.A.A.ZIYAD RAHMAN**

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

sts

P.B.SURESH KUMAR, J.

M.A.C.A.No.462 OF 2015

Dated this the 23rd 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 a welder. The accident took place on 20.2.2011. The claimant was aged 23 years at the time of accident. A sum of Rs.60,000/- 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. 34,855/- 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 issued to the claimant by the

doctor who examined him immediately after the accident. A certified copy of Ext.A4 wound certificate was made available to me at the time of hearing. The wound certificate reveals that the claimant sustained fracture of right temporal bone in the accident. It is seen that the Tribunal had not noticed the said injury while determining the compensation payable to be claimant. A sum of Rs.8,000/- was granted by the Tribunal as compensation towards pain and sufferings. In the nature of the injuries sustained by the claimant, I am of the view that the claimant is entitled to a further sum of Rs.12,000/- towards compensation for pain and sufferings. A sum of Rs.5,000/- was granted by the Tribunal to the claimant by way of compensation towards loss of earnings for a period of one month, reckoning his monthly income at Rs.5,000/-. In the nature of the injuries sustained by the claimant, according to me, he is entitled to compensation for loss of earnings at least for a period of two months. The claimant is therefore, entitled to a further sum of Rs.5,000/- towards compensation on that head. Though the claimant had undergone inpatient treatment in a hospital for four days in connection with the injuries sustained by him, no

compensation is seen awarded towards bystanders' expenses. The claimant is entitled to a sum of Rs.1,000/- on this head. Likewise, no compensation is seen awarded towards extra-nourishment also. The claimant is entitled to a sum of Rs.3,000/- towards extra-nourishment. Despite the injuries aforesaid, no compensation was awarded towards loss of amenities and enjoyments in life. On an evaluation of the nature of the injuries sustained by the claimant and the treatment undergone by him, I am of the view that the claimant is entitled to a sum of Rs.8,000/- towards loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.29,000/- 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.29,000/- 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.

jes

P.B.SURESHKUMAR, JUDGE