

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

MACA.No. 523 of 2015

O.P(M.V)NO.1073/2013 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE

APPELLANT(S)/PETITIONER :

**ABHIMANYU N.T. (MINOR), AGED 11 YEARS,
(DOB 21-07-2003), REPRESENTED BY HIS FATHER SURESH N.T.,
S/O.KARYATHAN, AGED 46 YEARS, 'NAMASTHE',
NADUVATHU THAZHATHU, KAKKDI P.O., MAKKADA AMSOM DESOM,
KOZHIKODE-673 617.**

**BY ADVS.SRI.P.S.SREEDHARAN PILLAI
SRI.T.K.SANDEEP
SRI.ARJUN SREEDHAR
SRI.ARUN KRISHNA DHAN
SRI.JOSEPH GEORGE(MULLAKKARIYIL)**

RESPONDENT(S)/RESPONDENTS :

- 1. PRADEESH KUMAR, AGED ABOUT 35 YEARS,
S/O.KRISHNANKUTTY, 6/431, CHERUPUTHUKKUDI HOUSE,
KAKKODI P.O., KOZHIKODE-673 611.**
- 2. SHIJILA, AGED 30 YEARS,
W/O.PRATHEESH KUMAR, 6/431, CHERUPUTHUKKUDI HOUSE,
KAKKODI P.O., KOZHIKODE-673 611.**
- 3. ICICI LOMBARD GENERAL INSURANCE CO.LTD.,
ICICI LOMBARD HOUSE, 414, VEER SAVARKAR MAG,
NEAR SIDHI VINAYAK TEMPLE, PRABHADEVI, MUMBAI, PIN-400 025.**

R3 BY ADV. SRI.R.AJITH KUMAR (128/84)

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 27-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

P.B.SURESH KUMAR, J.

M.A.C.A.No.523 of 2015

Dated this the 27th day of July, 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 minor. The accident took place on 29.10.2012. The claimant was aged 10 years at the time of accident. A sum of Rs.80,000/- 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.15,000/- 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 nasal bone fracture in the accident. He was treated at IQRAA Hospital, Malaparamba and at Medical College Hospital, Kozhikode. Ext.A2 is the wound certificate issued by the doctor who examined the petitioner at IQRAA Hospital, Malaparamba immediately after the accident. The Tribunal found from the materials on record that the claimant sustained fracture of nasal bone in the accident. There was however no inpatient treatment for the claimant.

5. Coming to the quantum of compensation, only a sum of Rs.10,000/- is seen awarded by the Tribunal towards pain and sufferings. As noticed above, since the accident took place in the year 2012, I am of the view at

least a sum of Rs.15,000/- should have been granted to the claimant by the Tribunal towards pain and sufferings. Therefore, the claimant is granted a further sum of Rs.5,000/- on that head. Only a sum of Rs.3,000/- is seen awarded to the claimant towards loss of amenities and enjoyments in life. Having regard to the nature of injury sustained by the claimant, I am of the view that the claimant is entitled to a further sum of Rs.4,500/- towards loss of amenities and enjoyments in life as well. Towards extra nourishment, only a nominal amount of Rs.500/- is seen granted by the Tribunal to the claimant. As noticed above, since the accident took place in the year 2012, according to me, a further sum of Rs.2,000/- should have been granted towards extra nourishment. Thus, the claimant is entitled to a further sum of Rs.11,500/- towards compensation.

6. 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.11,500/- 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.

P.B.SURESH KUMAR, JUDGE.

smm