

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

MACA.No. 676 of 2015 ()

**(AGAINST THE AWARD IN OP(MV).NO. 1565/2003 OF PRINCIPAL MOTOR ACCIDENTS
CLAIMS TRIBUNAL, KOZHIKODE DATED 09-04-2008)**

APPELLANT/PETITIONER :

**A.K.ABDUL RAHIMAN,
S/O.ALIKUNHI, AGED 61 YEARS,
RESIDING AT KALLITHODUKAYIL HOUSE,
PILASSERY POST, VIA PADANILAM, KOZHIKODE.**

BY ADV. SMT.K.V.RESHMI

RESPONDENT/3RD RESPONDENT :

**THE UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE, SEEMA TOWERS,
MAVOOR ROAD, KOZHIKODE-673 001,
REPRESENTED BY ITS MANAGER.**

**BY ADVS. SMT.T.C.SOWMIAVATHY
SRI.JOHN JOSEPH VETTIKAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 29-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

P.B.SURESH KUMAR, J.

M.A.C.A.No.676 of 2015

Dated this the 29th day of July, 2015

JUDGMENT

The claimant in a proceedings 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 coolie. He was aged 50 years at the time of the accident. The accident took place on 22.5.2003. 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.3,000/- 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 of the vehicle was directed to satisfy the award. The claimant is aggrieved by said decision of the Tribunal and hence this appeal.

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 from the Government Hospital, Kozhikode. The Tribunal found that the claimant had sustained fracture of fibula neck in the accident. There is nothing on record to indicate as to whether the claimant had undergone inpatient treatment in the hospital or not. The Tribunal took the view that since the claimant had not adduced any further evidence to prove the gravity of the injuries, only a consolidated sum of Rs.3000/- can be granted by way of compensation.

5. The view of the Tribunal cannot be accepted. As noticed above, Ext.A4 wound certificate indicates beyond

doubt that the claimant had sustained fracture of the neck of fibula. The claimant, in the circumstances, should have been adequately compensated for the said injury sustained by him in the accident. Since the compensation due to the claimant under different heads had not been determined by the Tribunal, I deem it appropriate to grant the following compensation to the claimant.

<i>Head of Claim</i>	<i>Amount fixed</i>
Transportation	500/-
Damage to clothing	500/-
Pain and sufferings	15,000/-
Loss of amenities and enjoyments in life	7,500/-
Total	23,500/-

Since the claimant had been granted a sum of Rs.3000/- by the Tribunal, he is entitled to a further sum of Rs.20,500/- 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.20,500/- 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, except for the period of delay in filing the appeal, viz., 2231 days as ordered in C.M.Application No.765 of 2015.

P.B.SURESH KUMAR, JUDGE.

smm