

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

MACA.No. 685 of 2015 ()

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OPMV.1084/2003 OF PRINCIPAL MOTOR ACCIDENTS CLAIMS TRIBUNAL,
KOZHIKODE.**

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APPELLANT/PETITIONER:

**YASSIN (MINOR 16 YEARS),
REPRESENTED BY HIS MOTHER & LEGAL GUARDIAN,
JUBAIRIYA, RESIDING AT HAJIAR COLONY, HOUSE NO.2/2003,
PANICKER ROAD, NADAKAVU POST, KOZHIKODE.**

BY ADV. SMT.K.V.RESHMI.

RESPONDENT/2ND RESPONDENT:

**THE NATIONAL INSURANCE CO. LTD.,
BRANCH OFFICE, HIGH LANE PLAZA, M.G. ROAD,
KASARAGOD-671 121, REPRESENTED BY ITS MANAGER.**

**BY ADVS. SMT.DEEPA GEORGE,
SRI.M.A.GEORGE.**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 09-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.685 of 2015

Dated this the 9th 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 accident took place on 6.11.2001. The claimant was aged 3 ½ 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.5,000/- 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. Ext.A4 is the wound certificate of the claimant. The Tribunal found that the claimant sustained fracture of both bones of his left leg in the accident. The Tribunal also found that POP cast was applied on the claimant as part of the treatment. Ext.C1 is the report of the Medical Board authorised to issue disability certificate. The Medical Board did not certify permanent disability in Ext.C1 report.

5. It is seen that the Tribunal had granted a consolidated amount of Rs.5,000/- towards compensation to the claimant for the reason that he did not sustain any permanent disablement. But that does not mean that the claimant need not be given any compensation on various

heads admissible under law. Even in a case of this nature, the claimant is entitled to compensation towards transport expenses, extra nourishment, damage to clothing, pain and sufferings and loss of amenities and enjoyments in life. Having regard to the nature of the injuries sustained by the claimant, I am of the view that a consolidated sum of Rs.15,000/- towards compensation would serve the requirements on various heads admissible under law. Thus, the claimant is granted a further sum of Rs.10,000/- 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.10,000/- 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., 2258 days as ordered in C.M.Application No.782 of 2015.

P.B.SURESH KUMAR, JUDGE.

smm