

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

MACA.No. 179 of 2011

**AGAINST AWARD DATED 26-04-2010 OPMV 451/2004 OF MOTOR ACCIDENTS CLAIMS
TRIBUNAL, KALPETTA**
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APPELLANT(S)/PETITIONER:

**SAHADEVAN, AGED 44 YEARS, S/O.KRISHNAN,
MADATHILKANDI HOUSE, POST KAVUMANNAN,
WAYANAD DISTRICT.**

BY ADV. SMT.CELINE JOSEPH

RESPONDENT(S)/RESPONDENT NO.3:

**THE BRANCH MANAGER,
UNITED INDIA INSURANCE CO.LTD, BRANCH OFFICE,
RAWTHER BUILDING, NEAR PINANGODE ROAD JUNCTION,
MAIN ROAD, KALPETTA, WAYANAD DISTRICT.
(POLICY NO.101601/31/03/04013).**

BY ADV. SMT.K.S.SANTHI

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 02-03-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

msv/

P.B.SURESH KUMAR, J.

M.A.C.A.No.179 OF 2011

Dated this the 2nd 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 carpenter. The accident took place on 12.6.2004. The claimant was aged 38 years at the time of accident. A sum of Rs.50,000/- 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.19,050/- 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. The wound certificate produced by the claimant indicates that the claimant sustained injury on spine and he was under hospitalisation for five days. Ext.C1 is the disability certificate issued by the Medical Board assessing the permanent disability of the claimant at 1%.

5. Tribunal had reckoned the monthly income of the claimant at Rs.2,500/- and granted a sum of Rs.2,500/- by way of compensation for loss of earning for a period of one month. Considering the fact that the claimant sustained spine injury, I am of the view that the claimant is entitled to compensation for loss of earnings for a period of two months, reckoning his monthly income at Rs.5,000/-. The claimant is therefore, entitled to a further sum of Rs.7,500/- towards compensation on that head. A sum of Rs.4,800/- was granted by the Tribunal to the claimant towards compensation for continuing permanent disability, reckoning the monthly income of the claimant at Rs.2,500/- and the permanent disability at 1%, applying the multiplier '16'. In so far as the monthly income of the appellant is reckoned as Rs.5,000/- for granting compensation under the head loss of earnings, the compensation for continuing permanent disability is also liable to be revised and he is granted a further sum of Rs.4,800/- on that head. Nothing is seen

granted towards loss of amenities and conveniences. On an evaluation of the nature of the injuries sustained by the claimant, I am of the view that the claimant has to be granted a sum of Rs.5,000/- towards loss of amenities and conveniences. A sum of Rs.6,000/- was granted by the Tribunal as compensation towards pain and sufferings. In 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 further sum of Rs.4,000/- towards compensation for pain and sufferings. Thus, the claimant is entitled to a further sum of Rs.21,300/- 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.

7. In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.21,300/- 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

M.A.C.A.No.179 OF 2011

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delay in filing the appeal, viz., 109 days as ordered in C.M.Application
No.240 of 2011.

jes

Sd/-
P.B.SURESH KUMAR, JUDGE