

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

MACA.No. 624 of 2013 ()

**(AGAINST THE AWARD IN OP(MV).NO. 1113/2006 OF MOTOR ACCIDENT CLAIMS
TRIBUNAL, ALAPPUZHA DATED 29-08-2011)**

APPELLANT/PETITIONER:

**USHAMANY,W/O. RENGAMANY,
REVATHY HOUSE, ARYADU SOUTH PANCHAYATH,
WARD NO. 8, ALAPPUZHA.**

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT(S)/RESPONDENTS:

- 1. FIROZ KHADER,
S/O. ABDUL KHADER, SINABU MANZIL,
MUNICIPAL ASRAMAM WARD, ALAPUZHA -688 012.**
- 2. AJIM SHAH,
PONGASSERIL, AVALOOKUNNU P.O., SOUTH ARYAD,
ALAPUZHA - 688 001.**
- 3. NATIONAL INSURANCE CO LTD.,
REP. BY ITS BRANCH MANAGER, ALAPUZHA-688 001**

**R3 BY ADV. SRI.RAJESH THOMAS
SRI.M.A.GEORGE**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

P.B.SURESH KUMAR, J.

M.A.C.A.No.624 of 2013.

Dated this the 6th day of April, 2015.

J U D G M E N T

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 house wife. She was aged 40 years at the time of accident. The accident took place on 2.10.2005. A sum of Rs.27,000/- 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.14,789/- 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.

3. Heard the learned counsel for the claimant and the learned counsel for the insurer.

4. The claimant sustained fracture of the shaft of humerus and fracture of a rib in the accident. The Tribunal found that the claimant had undergone inpatient treatment in the hospital for 16 days in connection with the accident.

5. Towards pain and sufferings the Tribunal granted only a sum of Rs.9,000/- to the claimant. In the nature of the injuries sustained by the claimant and the treatment undergone by her, I am of the view that she is entitled to a sum of Rs.11,000/- more towards compensation for pain and sufferings. No compensation is seen awarded towards loss of amenities and enjoyments in life. In the absence of a disability certificate, no compensation is awarded towards continuing disability as well. On an evaluation of the materials on record and in the absence of separate compensation for continuing disability, if any, I am of the view that the claimant is entitled to a sum of Rs.10,000/- towards compensation for loss of amenities and enjoyments in life. The Tribunal granted only a sum of Rs.1,600/- towards bystander's expenses. Since the accident took

place in the year 2005, according to me, the claimant should have been awarded bystander's expenses at the rate of Rs.250/- per day. The claimant is therefore, entitled to a further sum of Rs.2,400/- on that head. Towards extra nourishment, only a sum of Rs.1,000/- is seen granted by the Tribunal. In view of the prolonged treatment undergone by the claimant, she is entitled to a sum of Rs.1,000/- more towards compensation for extra nourishment. Thus, the claimant is entitled to a further sum of Rs.24,400/- 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.24,400/- to the claimant by way of compensation. Needless to say, the claimant will be entitled

M.A.C.A.No.624/2013.

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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., 457 days, as ordered in C.M.Application No.798 of 2013.

Sd/-P.B.SURESH KUMAR, JUDGE.

Kvs/-

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PA TO JUDGE.