

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 7TH DAY OF JULY 2015/16TH ASHADHA, 1937

MACA.No. 866 of 2015 ()

OPMV.536/2010 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, IRINJALAKUDA.

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APPELLANT/PETITIONER:

**JINI ALBERT, W/O.ALBERT PAUL,
CHAMAKALA HOUSE, KALLETUMKARA DESOM P.O.,
MUKUNDAPURAM TALUK.**

BY ADV. SRI.P.VBABY.

RESPONDENTS/RESPONDENTS 1 AND 3:

- 1. MUTHULINGAM. M., 4/79,
EACHAMPATTY P.O., BALAGANGAMAHALLI,
NALLAMPALLY VIA. DARMAPURI DISTRICT,
TAMIL NADU - 636 901.**
- 2. SHRIRAM GENERAL INSURANCE COMPANY LTD.,
10003, E8, RIICO, INDUSTRIAL AREA,
SITHAPURAM P.O., JAIPUR, RAJASTHAN - 302 022.**

**R2 BY SRI.MATHEWS JACOB, SENIOR ADVOCATE.
ADV. SRI.P.JACOB MATHEW.**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 07-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.866 of 2015

Dated this the 7th 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 an accountant in a private company. The accident took place on 3.12.2009. The claimant was aged 26 years at the time of accident. A sum of Rs.75,000/- 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.36,170/- and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance

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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. Ext.A3 is the wound certificate and Ext.A4 is the discharge summary issued to the claimant from the hospital where she was admitted for treatment for the injuries sustained by her in the accident. The Tribunal found from the said documents that the claimant had suffered, among others, haematoma and multiple lacerated wounds over forehead, a lacerated wound over the right wrist, fracture of right frontal bone etc. in the accident. The Tribunal also found that the claimant had undergone inpatient treatment for two days.

5. As stated above, the claimant was an accountant in a private company. According to her, at the time of accident, she was getting monthly income at the rate of Rs.6,000/-. Since the accident took place in the year 2009, according to me, the case of the claimant as regards her monthly income should have been accepted by the Tribunal. The Tribunal, however, reckoned the

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monthly income of the claimant only at Rs.3,500/- and granted only a sum of Rs.3,500/- towards loss of earnings. Since it is found that the case of the claimant as regards her monthly income should have been accepted by the Tribunal, she is entitled to a further sum of Rs.2,500/- towards loss of earnings. Only a sum of Rs.500/- is seen granted to the claimant towards extra nourishment. Having regard to the injuries sustained by the claimant, I am of the view that she is entitled to a further sum of Rs.2,000/- on that head. Towards pain and sufferings, despite the injuries referred to above including head injuries sustained by the claimant, only a sum of Rs.10,000/- is seen granted by the Tribunal. Considering the nature of injuries sustained by the claimant, according to me, the claimant should have been granted at least a sum of Rs.20,000/- towards compensation on that head. The claimant is therefore, entitled to a further sum of Rs.10,000/- on that head. Towards loss of amenities and enjoyments in life, it is seen that the claimant was granted a sum of Rs.7,000/- by the Tribunal. On an evaluation of the materials on record, I am of the view that the claimant is entitled to a

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further sum of Rs.3,000/- on that head as well. Thus, the claimant is entitled to a further sum of Rs.17,500/- 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.17,500/- 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