

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

MACA.No. 360 of 2011 ()

OPMV.1420/2007 OF II ADDL. MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE.

.....

APPELLANT/PETITIONER:

**E.K. SREEMATHI, W/O.KUNJAN, AGED 50 YEARS,
ETTARAMKOTTUMMEL HOUSE, THAZHEKODE AMSOM DESOM,
MANASSERY P.O., MUKKAM, KOZHIKODE.**

**BY ADVS.SRI.V.T.RAGHUNATH,
SMT.C.V.RAJALAKSHMI.**

RESPONDENT/RESPONDENTS:

- 1. SHAFEEQUE, S/O.MUHAMMED C.K.,
4/396, CHETTUVYAMKANDY HOUSE, PADANILAM P.O.,
KUNNAMANGALAM, KOZHIKODE-673 571.**
- 2. C.T. HAREESH, S/O.KUNHI KRISHNAN,
AGE NOT KNOWN, CHENGATHAZHATH HOUSE,
CHATHAMANGALAM P.O., KOZHIKODE-673 601.**
- 3. THE BRANCH MANAGER,
THE ORIENTAL INSURANCE CO. LTD.,
BRANCH OFFICE, P.B. NO.8, JYOTHI SUPER BAZAR,
THODUPUZZHA, IDUKKI-685 584.**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 23-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.360 of 2011

Dated this the 23rd day of June, 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 milk vendor. The accident took place on 17.7.2006. The claimant was aged 47 years at the time of accident. A sum of Rs.1,00,000/- 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.38,650/- and accordingly, an award was passed in her favour for the said amount. As the vehicle involved in the accident was covered by a valid insurance policy issued by the third respondent, the Tribunal directed the third respondent to satisfy the award.

The claimant is aggrieved by the said decision of the Tribunal.

3. Ext.A2 is the wound certificate produced by the claimant before the Tribunal. The Tribunal found that the claimant had sustained a lacerated crush injury on her right index finger. The Tribunal also found that on account of the injury sustained by her, a portion of her right index finger had to be amputated.

4. The Tribunal granted a sum of Rs.5,000/- to the claimant towards loss of earnings for a period of two months reckoning her monthly income at Rs.2,500/-. As notice above, the accident took place in the year 2006. As such, in the light of the decision of the Apex Court in **Ramachandrappa vs. Manager, Royal Sundaram Alliance Insurance Company Ltd.** [2011 ACJ 2436], the monthly income of the claimant should have been reckoned by the Tribunal at Rs.4,500/-. The claimant is, therefore, entitled to a further sum of Rs.4,000/- towards loss of earnings. Despite the fact that the claimant had to amputate

one of her fingers, only a sum of Rs.8,000/- is seen granted by the Tribunal towards pain and sufferings. According to me, the claimant is entitled to a further sum of Rs.7,000/- on that head. No compensation is seen granted to the claimant towards loss of amenities and enjoyments in life. On an evaluation of the materials on record, I am of the view that the claimant is entitled to at least a sum of Rs.5,000/- towards loss of amenities and enjoyments in life as well. Towards continuing permanent disability, a sum of Rs.23,400/- is seen granted to the claimant, reckoning her monthly income at Rs.2,500/- and disability at 6%, applying the multiplier of '13'. Since I have found that the monthly income of the claimant should have been reckoned at Rs.4500/-, the claimant is entitled to a further sum of Rs.18,720/- ($2000 \times 12 \times 13 \times 6 / 100$) towards compensation for continuing permanent disability. Thus, the claimant is entitled to a sum of Rs.34,720/- towards additional compensation.

5. It is seen that interest has been granted by the

Tribunal for the compensation awarded only at the rate of 7% 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.34,720/- 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