

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

MACA.No.14 of 2014 ()

**AGAINST THE AWARD IN OPMV 730/2010 of M.A.C.T. OTTAPPALAM
DATED 16-08-2013**

APPELLANT/PETITIONER :-:

**ANJANA (MINOR), AGED 8 YEARS
D/O.APPU, THIRUTHUMPADAM HOUSE,
POTHUNDI POST, NENMARA, PALAKKAD DISTRICT
REPRESENTED BY GUARDIAN FATHER APPU, S/O.MANI
THIRUTHUMPADAM HOUSE, POTHUNDI POST, NENMARA.**

BY ADV. SRI.R.SREEHARI

RESPONDENT(S)/RESPONDENTS :-:

- 1. FIROS KHAN, S/O.SULAIMAN,
PUTUTHUKATTUMADA HOUSE, VANDITHAVALAM
CHITTUR, PALAKKAD DISTRICT, PIN - 678 534.**
- 2. UNITED INDIA INSURANCE COMPANY LTD.,
PERSONAL LINE INSURANCE OFFICE, SURYA COMPLEX
MISSION H S S JUNCTION, PALAKKAD - 678 014.**

**R1 BY ADV. SRI.K.SANDESH RAJA
R2 BY SRI.JOHN JOSEPH VETTIKAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 06-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

VS

P.B.SURESH KUMAR, J

M.A.C.A.No.14 of 2014

Dated this the 6th day of February, 2015

JUDGMENT

The claimant in an application for compensation before the Motor Accidents Claims Tribunal has come up in this appeal, challenging the quantum of compensation granted to her.

2. The claimant was a child aged 5 years at the time of accident. The accident took place on 23.5.2010. She sustained injuries on her right elbow and on her face. She was under treatment as inpatient in a hospital for 14 days. She claimed a sum of Rs.1,00,000/- by way of compensation in the proceedings. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.50,300/- towards compensation and accordingly, an award for the said amount was passed. Since the vehicle involved in the accident was covered by a valid insurance policy, the insurer of the vehicle was directed to satisfy the award. As noticed above, the claimant is aggrieved by the quantum of compensation granted to her and hence this appeal.

3. Ext.A5 is the wound certificate and Ext.A9 is the discharge summary issued to the claimant from the hospital

where the claimant was admitted. The Tribunal noticed that the claimant sustained deep laceration on her right elbow with flap loss, multiple laceration on her face, etc. The Tribunal also noticed that the claimant was treated as inpatient in a hospital for 14 days for the injuries sustained by her in the accident.

4. Out of the total amount of Rs.50,300/- granted by way of compensation, Rs.28,200/- represents the reimbursement of the medical bills produced by the claimant. Though she has undergone treatment as inpatient for 15 days, she was granted only a sum of Rs.10,000/- by way of compensation for pain and sufferings. According to me, the claimant is entitled to a further sum of Rs.5,000/- by way of compensation for pain and sufferings. She had been granted only a sum of Rs.5,000/- towards compensation for loss of amenities and enjoyments in life. The claimant being a girl child who has sustained multiple lacerations on her face and on her hand, I am of the view that the claimant is entitled to a further sum of Rs.15,000/- towards loss of amenities and enjoyments in life. A sum of Rs.2,800/- is seen granted towards bystander's expenses. According to me, the compensation granted towards bystanders expenses is also

inadequate, especially since the accident took place in the year 2010. On an evaluation of the facts and circumstances of the case, I am of the view that the claimant is entitled to a further sum of Rs.2,800/- towards bystander's expenses. Thus the claimant is entitled to a further sum of Rs.22,800/- by way of compensation.

In the result, the appeal is allowed in part and the award in favour of the claimant is modified granting her a further amount of Rs.22,800/- by way of compensation. Needless to say, the claimant is entitled to interest also for the enhanced compensation at the same rate at which the interest was granted by the Tribunal for the compensation awarded.

Sd/-
P.B.SURESH KUMAR
JUDGE

/TRUE COPY/

PA TO JUDGE

VS