

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

MACA.No. 1304 of 2015

**OPMV 2243/2004 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE
DTD.12-11-2008**
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APPELLANT(S)/PETITIONER:

**ATHUL ARAVIND, AGED 20 YEARS,
S/O. ARAVIND, ANIYANVEETIL, POST CHATHAMANGALAM,
REC, KOZHIKODE.**

BY ADV. SMT.K.V.RESHMI

RESPONDENT(S)/2ND RESPONDENT:

**NATIONAL INSURANCE COMPANY LTD.,
DIVISIONAL OFFICE, NOOR COMPLEX, MAVOOR ROAD,
KOZHIKODE- 673 001, REPRESENTED BY ITS MANAGER.**

**BY ADVS. SMT.DEEPA GEORGE
SRI.M.A.GEORGE**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 02-07-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

msv/

P.B.SURESH KUMAR, J.

M.A.C.A.No.1304 of 2015

Dated this the 2nd 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 was aged 10 years at the time of accident. The accident took place on 1.6.2004. 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.20,000/- 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. Ext.A2 is the wound certificate produced by the claimant before the Tribunal. The Tribunal found from Ext.A2 that the claimant sustained fracture of femur(R) in the accident. The Tribunal also found that K-nail was applied as part of the treatment and later the same was removed after admitting him in the hospital for the said purpose. As noticed above, the Tribunal has granted only a sum of Rs.20,000/- by way of compensation to the claimant. Out of 20,000/- granted to the claimant, Rs.8,500/- represents compensation for pain and sufferings and Rs.4,000/- represents compensation for loss of amenities. Having regard to the fact that the claimant sustained fracture of femur and that he had to undergo surgical procedures for application and removal of K-nail, I am of the view that the compensation for pain and sufferings granted by the Tribunal is inadequate. On an evaluation of the materials on record, I fix the compensation payable to the claimant on that head at Rs.20,000/-. The claimant is, therefore, entitled to a further sum of Rs.11,500/- on that head. Likewise,

the compensation granted to the claimant towards loss of amenities and enjoyments in life is also inadequate. The compensation granted on that head is accordingly, refixed at Rs.7,500/-. The claimant is therefore, entitled to a further sum of Rs.3,500/- towards loss of amenities and enjoyments in life. No compensation is seen granted towards extra nourishment. Considering the facts and circumstances of this case, I am of the view that the claimant should have been granted a sum of Rs.2,500/- towards extra nourishment as well. Therefore, I fix the compensation payable to the claimant on that head at Rs.2,500/-. Thus, the claimant is entitled to a further sum of Rs.17,500/- towards 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.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, except for the period of delay in filing the appeal, viz., 2275 days as ordered in C.M.Application No.1457 of 2015.

P.B.SURESH KUMAR, JUDGE.

smm