

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

MACA.No. 1383 of 2015 ()

OPMV. NO.336/2009 OF PRL. MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE.
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APPELLANT/PETITIONER:

**P.K. APPUKUTTAN, S/O.P.K.APPU,
AGED 61 YEARS, OTTAPILAKKAL HOUSE,
P.O. MAKKADA, KAKKODI, KOZHIKODE**

BY ADV. SMT.K.V.RESHMI.

RESPONDENT/3RD RESPONDENT:

**THE NATIONAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE, NOOR COMPLEX, MAVOOR ROAD,
KOZHIKODE, REPRESENTED BY ITS MANAGER.**

**BY ADVS. SMT.P.K.SANTHAMMA,
SRI.M.A.GEORGE.**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 09-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.1383 of 2015

Dated this the 9th day of October, 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 accident took place on 23.12.2008. The claimant was aged 56 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.18,560/- and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance policy, the

insurer of the vehicle 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. The claimant sustained various injuries in the accident including subarachnoid haemorrhage, fracture of maxillary sinus, fracture of nasal bone etc. He was admitted and treated in the hospital for a period of eight days from 23.12.2008 to 31.12.2008. It is seen that in the course of treatment, CT scan was also done on him to rule out any serious head injury.

5. It is seen that the Tribunal has granted only a very nominal amount by way of compensation to the claimant. Towards pain and sufferings, only a sum of Rs.9,000/- is seen granted by the Tribunal. Having regard to the injury sustained by the claimant as noticed above and the treatment undergone by him, I am of the view that the

claimant is entitled to a further sum of Rs.11,000/- towards pain and sufferings. Towards loss of amenities and enjoyments in life, only a sum of Rs.1,000/- is seen granted. The claimant is entitled to a further sum of Rs.9,000/- on that head. Towards extra nourishment, only a sum of Rs.200/- is seen granted by the Tribunal. Having regard to the facts and circumstances of the case, I am of the view that the claimant is entitled to a further sum of Rs.1,800/- on that head. As regards compensation towards bystander's expenses, only a sum of Rs.500/- is seen granted by the Tribunal. According to me, the claimant is entitled to a further sum of Rs.1,500/- on that head. Thus, the claimant is entitled to a further sum of Rs.23,300/- towards compensation.

6. 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.23,300/- 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., 1822 days as ordered in C.M.Application No.1538 of 2015.

P.B.SURESH KUMAR, JUDGE.

smm