

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

MACA.No. 1388 of 2015 ()

**AGAINST THE AWARD IN OP(MV) NO. 379/2005
OF PRL. MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE**

APPELLANT/RESPONDENT :

**NITHINRAJ
AGED 19 YEARS, S/O. V.P. RAJAN,
VAZHAPARAMBIL HOUSE, P.O. KALLAI
KOZHIKODE.**

BY ADV. SMT.K.V.RESHMI

RESPONDENT/2ND RESPONDENT :

**UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE, WHITELINES BUILDING, P.O.KALLAI
KOZHIKODE-673 003, REPRESENTED BY ITS MANAGER.**

**BY ADVS. SRI.K.KESAVANKUTTY
SRI.JOHN JOSEPH VETTIKAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 05-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

P.B.SURESH KUMAR, J.

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M.A.C.A.No.1388 of 2015
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Dated this the 5th day of October, 2015

J U D G M E N T

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 to him by the Tribunal.

2. The claimant was a minor aged 9 years at the time of accident. The accident took place on 13.8.2004. A sum of Rs.20,000/- was claimed by way of compensation in the claim petition. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a consolidated sum of Rs.3,000/- by way of compensation 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. As noticed above, the claimant is aggrieved by the decision of the Tribunal.

3. Heard the learned counsel for the appellant/claimant as also the learned counsel for the respondent/insurer.

4. The Tribunal found that the claimant sustained a soft tissue injury in the accident. It is seen that the X-ray done on the claimant revealed that there were no fractures. Nevertheless, the claimant was advised to undergo a dental consultation. The Tribunal has not determined the compensation due to the claimant under the various eligible heads. Instead, the Tribunal chose to award a consolidated sum of Rs.3,000/- by way of compensation. Since the claimant sustained injuries in a motor accident, even if it is taken that the injuries were not serious, he is certainly entitled to compensation for transport to hospital, damage to clothing and articles, extra nourishment, pain and sufferings, etc. As such, I am of the view that since the Tribunal chose to award a consolidated sum towards compensation, he should have been granted at least a sum of Rs.10,000/-. Thus, the claimant is entitled to a further sum of Rs.7,000/- 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

MACA.No.1388/2015.

3

compensation granted by the Tribunal is modified granting a further sum of Rs.7,000/- 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., 2372 days as ordered in C.M.Appl.No.1543 of 2015.

Sd/-
P.B.SURESH KUMAR
JUDGE

Kvs

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PA TO JUDGE.