

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

MACA.No. 1413 of 2015 ()

**OP(MV) NO. 2128/2006 OF PRINCIPAL MOTOR ACCIDENT CLAIMS TRIBUNAL,
KOZHIKODE DATED 30/10/2009**

APPELLANT/PETITIONER:

**HASSAN SABITH,
AGED 23 YEARS, S/O.ABDULLA
ORUPURAM KANDATHIL HOUSE,
P.O. KODUVALLY, KOZHIKODE.**

BY ADV. SMT.K.V.RESHMI

RESPONDENT/3RD RESPONDENT :

**UNITED INDIA INSURANCE CO.LTD.,
DIVISIONAL OFFICE, WHITE LINES BUILDING, KALLAI ROAD
KOZHIKODE-673013, REPRESENTED BY ITS MANAGER.**

**BY ADVS. SMT.P.K.SANTHAMMA
SRI.JOHN JOSEPH VETTIKAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 09-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

P.B.SURESH KUMAR, J.

M.A.C.A.No.1413 of 2015

Dated this the 9th 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 accident took place on 2.5.2006. The claimant was aged 15 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.23,602/- 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. The claimant sustained fracture of maxilla, right frontal bone and right orbit. He lost three teeth in the accident. Ext.A2 is the wound certificate produced by the claimant before the Tribunal. Ext.A3 is the treatment book showing that the claimant was admitted in the hospital on 2.5.2006 and discharged on 12.5.2006. Having regard to the injuries sustained by the claimant as referred to above, I am of the view that the claimant should have been granted at least a sum of Rs.20,000/- towards compensation for pain and sufferings. Since the Tribunal has granted only a sum of Rs.16,000/- towards compensation on that head, a further sum of Rs.4,000/- is granted to the claimant towards compensation for pain and sufferings. Towards bystander's expenses, only a sum of Rs.1,500/- is seen granted by the Tribunal. Since the accident took place in the year 2006, I

am of the view that the claimant is entitled to a further sum of Rs.1000/- towards bystander's expenses. Despite the head injury sustained by the claimant, no compensation is seen granted towards extra nourishment. According to me, a sum of Rs.2,000/- needs to be granted to the claimant towards extra nourishment. Since the claimant had not produced any disability certificate, no compensation is seen granted to him towards continuing disability. In the circumstances, in so far as the claimant sustained fracture of the right frontal bone and right orbit, I am of the view that the claimant should have been adequately compensated for loss of amenities and enjoyments in life. Only a sum of Rs.1,000/- has been granted by the Tribunal towards loss of amenities and enjoyments in life. Having regard to the facts and circumstances of the case, I am of the view that the claimant has to be granted a further sum of Rs.14,000/- on that head. Thus, the claimant is entitled to a further sum of Rs.21,000/- 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 compensation granted by the Tribunal is modified granting a further sum of Rs.21,000/- 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., 1930 days as ordered in C.M.Application No.1573 of 2015.

P.B.SURESH KUMAR, JUDGE.

smm