

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

MACA.No. 269 of 2014 ()

OPMV. NO.825/2011 OF PRL. MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE.

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APPELLANT/PETITIONER:

**MUHAMMED @ MUHAMMED MON, S/O.A.K. HAMSA,
AGED 53 YEARS, RESIDING AT EDAVALAKKANDY HOUSE,
KODUVALLY,P.O. PALAKKUTTY, KOZHIKODE.**

BY ADV. SRI.AVM.SALAHUDIN.

RESPONDENTS/RESPONDENTS:

- 1. O.P.ABOO, S/O.O.P. MOOSA, AGED 48 YEARS,
RESIDING AT OTTAPPILAKKIL HOUSE,
THAZHEPADANILAM, PADANILAM. P.O.,
KOZHIKODE- 673 571.**
- 2. THE NEW INDIA ASSURANCE CO. LTD.,
DIVISIONAL OFFICE, SILVER PLAZA BUILDING,
I.G. ROAD, KOZHIKODE- 673 001.**

**R2 BY ADVS. SRI.RAJESH THOMAS,
SRI.A.A.ZIYAD RAHMAN.**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 18-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.269 of 2014

Dated this the 18th day of August, 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 is a mason. The accident took place on 29.1.2011. The claimant was aged 53 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.69,000/- and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance policy, 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 including fracture of nasal bone in the accident. He was though taken to the Medical College Hospital, Kozhikode after the accident, later he was admitted and treated as inpatient at IQRAA Hospital, Malaparamba till 7.2.2011. Ext.A4 is the disability certificate issued to the claimant by one Dr. Kumaran Chettiar, certifying the permanent disability of the claimant at 20%. The Tribunal did not accept Ext.A4 certificate as the same was not issued by the competent Medical Board.

5. The Tribunal has granted a sum of Rs.8,000/- to the claimant towards loss of earnings for a period of two months. As noticed above, the claimant is a mason. Since the accident took place in the year 2011, according to me, the

monthly income of the claimant should have been reckoned by the Tribunal at Rs.6,000/-. The claimant is therefore, entitled to a further sum of Rs.4,000/- towards loss of earnings. Coming to the compensation payable to the claimant towards loss of earning power, the Tribunal granted to the claimant a sum of Rs.26,400/-, reckoning the monthly income of the claimant at Rs.4000/- and disability at 5%, applying the multiplier '11'. Since it is found that the monthly income of the claimant is liable to be revised to Rs.6,000/- the claimant is entitled to a further sum of Rs.13,200/- on that head. No compensation is seen granted to the claimant towards extra nourishment. Having regard to the facts and circumstances of the case, I am of the view that the claimant is entitled to a sum of Rs.3,000/- towards extra nourishment also. Towards bystander's expenses, only a sum of Rs.1800/- is seen awarded. Since the accident took place in the year 2011, according to me, the claimant is entitled to bystander's expenses at the rate of Rs.300/- per

day. The claimant is therefore, entitled to a further sum of Rs.900/- on that head. Towards pain and sufferings only a sum of Rs.15,000/- is seen granted. Having regard to the injuries sustained by the claimant and the prolonged hospitalization, the claimant is entitled to a further sum of Rs.5,000/- on the said head. Towards loss of amenities and enjoyments in life, only a sum of Rs.10,000/- is seen granted. The claimant, in the facts and circumstances of the case, is entitled to a further sum of Rs.5,000/- on that head. Thus, the claimant is entitled to a further sum of Rs.31,100/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 8% 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.31,100/- 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.

P.B.SURESH KUMAR, JUDGE.

smm