

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

MACA.No.275 of 2014

**OP(MV) NO.509/2011 OF THE PRINCIPAL MOTOR ACCIDENTS CLAIMS TRIBUNAL,
KOZHIKODE.**

APPELLANT/PETITIONER:

**AMEERA S.V,AGED 29 YEARS,D/O.T.K.MOIDU,
W/O.SALIH,'SNEHATHEERAM',5/504 - B,
P.O.NALLALAM,KOZHIKODE,
PERMANENTLY RESIDING AT SOOPIKA VEEDU,
13/1158,KUTTICHIRA,CALICUT.**

BY ADV.SRI.AVM.SALAHUDIN

RESPONDENTS/RESPONDENTS:

- 1. MUNEER,AGED 28 YEARS,S/O.ABDURAHIMAN,
MELETHODI HOUSE,IKKARAPPADI,
CHELEMBRA,MALAPPURAM - 673 634.**
- 2. UMMER,AGED NOT KNOWN,S/O.ANTHINKUTTY,
PANNIKOTTIL HOUSE,CHERUKAVU,MANJERI P.O.,
MALAPPURAM DISTRICT - 676 121.**
- 3. THE ORIENTAL INSURANCE CO.LTD.,
PRAMOD BUILDINGS,CHEROOTTY ROAD,
CALICUT - 673 001.**

**R3 BY ADV.SRI.P.JACOB MATHEW
SRI.GEORGE CHERIAN
SMT.K.S.SANTHI**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 21-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

P.B.SURESH KUMAR, J.

M.A.C.A.No.275 of 2014

Dated this the 21st day of May, 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 tailor. She sustained injuries in an accident took place on 30.8.2008. The claimant was aged 29 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.54,500/- 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

M.A.C.A.No.275 of 2014

by the said award.

3. Heard the learned counsel for the claimant and the learned counsel for the insurer.

4. The claimant sustained a lacerated wound on the upper lip, fracture of nasal bone and fracture of four teeth in the accident. Ext.A2 is the wound certificate issued to the claimant from Koyas Hospital, Cheruvannur. Ext.A5 is the discharge summary issued to the claimant from the said hospital. It is evident from Ext.A5 that the claimant was undergoing inpatient treatment in the hospital for 5 days. The Tribunal granted, among others, a sum of Rs.6000/- towards loss of earnings, a sum of Rs.15,109/- towards treatment expenses, a sum of Rs.15,000/- towards pain and sufferings, a sum of Rs.5000/- towards loss of amenities and enjoyments in life and a sum of Rs.10,000/- towards disfiguration.

5. The learned counsel for the appellant, relying on the evidence tendered by PW1, an Assistant Professor attached

M.A.C.A.No.275 of 2014

to KMCT Medical College, contended that the compensation granted to the claimant towards loss of amenities and enjoyments in life and disfigurement are too low. She also contended that despite the fact that the claimant had sustained fracture of four teeth, no compensation is granted for future treatment.

6. PW1 had given evidence to the effect that he had treated the claimant and issued Ext.A6 certificate. In Ext.A6, PW1 has certified that two upper central incisors of the claimant were found missing and therefore the said teeth are to be replaced. It is also certified in Ext.A6 that root canal treatment is to be done for the two lower central incisors. In Ext.A6, the doctor has indicated the approximate expenditure for the treatment as Rs.75,000/-. While giving evidence as PW1, the doctor has also stated that if the treatment suggested by him is not done, there would be facial disfigurement.

7. In the light of the evidence tendered by PW1, the

M.A.C.A.No.275 of 2014

claimant is entitled to a reasonable amount by way of compensation towards future treatment also. Having regard to the facts and circumstances of the case, I deem it appropriate to grant a sum of Rs.25000/- towards the future treatment to the claimant. As indicated earlier, only a sum of Rs.5,000/- has been granted to the claimant towards compensation for loss of amenities and enjoyments in life. The said compensation, according to me, is too meagre a compensation to be granted in a case like this. The claimant is, therefore, entitled to some more amount under the said head. Having regard to the fact that the claimant was a lady aged 29 years at the time of accident, I deem it appropriate to grant a further sum of Rs.10,000/- towards compensation for the loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.35,000/- towards compensation.

8. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of

M.A.C.A.No.275 of 2014

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.35,000/- 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.

P.B.SURESH KUMAR, JUDGE.

smm