

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

MACA.No. 1113 of 2011 ()

**OP(MV) NO. 2265/2005 OF PRINCIPAL MOTOR ACCIDENT CLAIMS TRIBUNAL,
KOZHIKODE DATED 08-10-2009**

APPELLANT :

**AMRUTHA VENUGOPAL,
D/O.VENUGOPAL, 22 YEARS,
PALAYULLAKANDY HOUSE, P.O. KINALOOR
BALUSSERY, KOZHIKODE.**

**BY ADVS.SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN**

RESPONDENT(S) :

- 1. BALAKRISHNAN NAIR,KRISHNA NIVAS,
P.O. EKAROO, UNNIKULAM, KOZHIKODE - 673 574.**
- 2. THE ORIENTAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE, SEEMA BUILDING, IIND FLOOR
G.H. ROAD, CALICUT - 673 001.**

R2 BY ADV. DR.ELIZABETH VARKEY

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

P.B.SURESH KUMAR, J.

M.A.C.A.No.1113 of 2011.

Dated this the 6th day of April, 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 by the Tribunal.

2. The claimant was a student. She was aged 16 years at the time of accident. The accident took place on 30.1.2005. 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.40,630/- 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.

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

4. Ext.A2 is the wound certificate produced by the claimant before the Tribunal. Ext.A3 is the treatment book issued to the claimant from the Medical College Hospital, Kozhikode. The claimant sustained injuries on her lumbar nerve. The Tribunal found that the claimant had undergone inpatient treatment in the above hospital for three days in connection with the accident. Ext.C1 is the proceedings issued by the Medical Board attached to the Medical College Hospital, Kozhikode showing that the disability of the claimant was assessed at 15%. The Tribunal granted only a sum of Rs.22,500/- towards compensation for continuing disability reckoning the notional yearly income of the claimant at Rs.15,000/- by applying the multiplier '10'. Since the accident took place in the year 2005, according to me, the notional yearly income should have been reckoned at Rs.24,000/-. Likewise, the claimant being a student aged 16 years at the time of accident, the multiplier should have

been taken as '18'. The compensation payable to the claimant for continuing disability, in the circumstances, is Rs.64,800/-. The Tribunal has awarded only a sum of Rs.22,500/-. Thus, the claimant is entitled to a further sum of Rs.42,300/- on that head. No compensation is seen awarded for loss of amenities and enjoyments in life. In the nature of the injuries sustained by the claimant, I am of the view, she is entitled to a sum of Rs.10,000/- towards compensation for loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.52,300/- 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.

6. In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.52,300/- to the claimant by way of

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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., 568 days as ordered in C.M.Application No.1711 of 2011.

Sd/-P.B.SURESH KUMAR, JUDGE.

Kvs/-

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PA TO JUDGE.