

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

MACA.No. 441 of 2014 ()

**AGAINST THE AWARD IN OPMV 861/2005 of ADDL. MOTOR ACCIDENTS CLAIMS
TRIBUNAL, PATHANAMTHITTA DATED 10-06-2013**

APPELLANT/PETITIONER:

**SABARISHKUMAR
KOLLANETHU HOUSE, PURTHUSSERIMALA MURI, RANNY VILLAGE.**

**BY ADVS.SRI.T.K.KOSHY
SRI.SABU I.KOSHY
SMT.V.V.RISANI**

RESPONDENTS/RESPONDENTS 1 & 2:

- 1. SURESHKUMAR
S/O RAMAKRISHNAN NAIR, VALUMANNIL HOUSE
NEAR CHERUVALLIKAVU DEVI TEMPLE
PURTHUSSERIMALA P.O., RANNY VILLAGE, PIN - 689 672.**
- 2. THE BRANCH MANAGER,
NEW INDIA ASSURANCE CO.LTD., SALIM BUILDING
NEAR POST OFFICE, CHANGANNASSERY, PIN - 686 101.**

R2 BY SRI.A.A.ZIYAD RAHMAN

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 12-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VPV

P.B.SURESH KUMAR, J.
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M.A.C.A.No.441 of 2014
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Dated this the 12th day of January, 2015

JUDGMENT

The claimant in a proceeding for compensation before the Motor Accident Claims Tribunal has come up in this appeal challenging the quantum of compensation granted to him.

2. The claimant was a student aged 12 years at the time of accident. He suffered injuries in the accident took place on 20.4.2005. He claimed a total sum of Rs.91,000/- by way of compensation.

3. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled only for a sum of Rs.6,000/- and an award was accordingly passed for the said amount.

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

5. The learned counsel for the appellant contended that since the claimant had sustained injuries in the accident, some amount should have been awarded by way of compensation for loss of amenities as well. The learned counsel for the appellant also pointed out that the tribunal had granted interest for the

compensation only at the rate of 7.5% per annum, which is slightly on the lower side.

6. It is beyond dispute that the claimant sustained injuries in the accident took place on 20.4.2005. Ext.A7 wound certificate of the claimant would indicate that he sustained the following injuries in the accident:-

- "1.Abrasion over the right knee (a) 2.5 cm in diameter.
(b) 2 cm in diameter.
2. A contusion over the left small toe 1.5 cm in diameter"*

It is seen that the claimant had undergone treatment at Marthoma Medical Mission Hospital, Ranny for the injuries sustained by him. As rightly contended by the learned counsel for the appellant, the Tribunal has granted only a sum of Rs.5,000/- towards pain and suffering. The Tribunal has not granted any amount by way of compensation for loss of amenities. According to me, the claimant is entitled to some amount by way of compensation for loss of amenities also, which I fix at Rs.5,000/-. I find merit in the contention of the appellant as regards the rate of interest granted by the tribunal also. According to me, interest should have been awarded at the rate of 9% per annum.

7. In the result, the award of the tribunal is modified and the

appellant is granted a further sum of Rs.5,000/- by way of compensation. The rate of interest granted by the tribunal for the amount awarded is also modified as 9% per annum in the place of 7.5% per annum granted by the tribunal. Needless to say, the claimant will be entitled to interest also for the enhanced compensation at the rate of 9% per annum.

The appeal is allowed as above.

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

vpv