

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. 1170 of 2011

OP(MV) 858/2007 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM

APPELLANT(S)/CLAIMANT:

**BISMI SUNIL, AGED 28,
W/O.SUNIL T.S, VALANJA VELIYIL HOUSE, A.K.G. ROAD,
PALLURUTHY, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.ABRAHAM K.JOHN
SMT.DIVYA K.NAIR**

RESPONDENT(S)/RESPONDENTS:

- 1. VINU, AGED 26,
S/O.MANOHARAN, KOLLAREZHATHU HOUSE, S.D.P.Y ROAD,
PALLURUTHY, PIN 682 005, ERNAKULAM DISTRICT,
D.L.EMT 4614/01 (DRIVER).**
- 2. GEORGE JENSON, MOOLAMKUZHY HOUSE,
KONTHURUTHY, THEVARA, PIN 682 013,
ERNAKULAM DISTRICT, (OWNER).**
- 3. UNITED INDIA INSURANCE COMPANY LTD,
BRANCH OFFICE, JOSE TRUST BUILDING, CHITTOOR ROAD,
KOCHI-35, PIN 682 035.**

R3 BY ADV. SRI.JOHN JOSEPH VETTIKKAD (B/O NO MEMO)

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

PJ

MACA.No. 1170 of 2011

APPENDIX

PETITIONERS' ANNEXURES

**A1: CERTIFIED COPY OF THE AWAR DATED 3/1/11 IN OP.(MV)NO.858/07 OF THE
MACT ERNAKULAM.**

**A2: TYPED COPY OF THE AWARD DATED 3/1/07 IN OP(MV) OF THE MACT
ERNAKULAM.**

RESPONDENTS' ANNEURE

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.B.SURESH KUMAR, J.

M.A.C.A.No.1170 of 2011

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 accident took place on 21.1.2007. The claimant was aged 28 years at the time of accident. The claimant is a house wife. A sum of Rs.35,500/- 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.11,351/- 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. Ext.A3 is the wound certificate issued to the claimant from the Medical Trust Hospital, Ernakulam. The Tribunal found that the claimant sustained multiple abrasion on her face and a lacerated wound on the left temporal occipital region. The Tribunal also found that the claimant had undergone treatment as inpatient in the hospital for three days. The Tribunal further found that the claimant had incurred a sum of Rs.6,251/- towards medical expenses. In the light of the finding of the Tribunal that the claimant sustained a head injury in the accident and had undergone inpatient treatment in the Hospital for the same, the compensation of Rs.3000/- granted to the claimant by the

Tribunal towards pain and sufferings is unreasonably low. On an evaluation of the materials on record, I am of the view that the claimant should have been granted at least a sum of Rs.10,000/- towards pain and sufferings. Thus, the claimant is granted a further sum of Rs.7,000/-towards pain and sufferings. No compensation is seen granted to the claimant towards loss of amenities and enjoyments in life. In so far as the claimant had sustained injuries in the accident, she is certainly entitled to a nominal amount towards compensation for loss of amenities and enjoyments in life also. Having regard to the injuries sustained by the claimant, I deem it appropriate to grant a sum of Rs.5,000/- to the claimant on that head. No compensation is seen granted to the claimant towards extra nourishment. In all injury cases, the claimants concerned are entitled to some amount towards extra nourishment. The claimant is therefore granted, having regard to the facts of this case, a sum of Rs.2,000/- towards extra nourishment also. Thus,

the claimant is entitled to a further sum of Rs.14,000/- towards compensation.

5. 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.14,000/- 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