

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

MACA.No. 479 of 2014 (D)

**O.P.(MV)NO. 937/2012 OF THE PRINCIPAL MOTOR ACCIDENTS CLAIMS
TRIBUNAL, KOZHIKODE**

APPELLANT/PETITIONER :-

**JINA.M.J. ,S/O.JOHNSON, AGED 20 YEARS,
RESIDING AT MARUTHOLI HOUSE,
POST KANNOTH,
VIA KONDENCHERY, KOZHIKODE.**

BY ADV. SRI.A.V.M.SALAHUDEEN

RESPONDENTS/RESPONDENTS :-

- 1. RAGHULAL,
AGE AND FATHERS NAME NOT KNOWN,
RESIDING AT KOCHUPARAMBU HOUSE,
KADAKKARAPPALLY,
CHERTHALA, ALAPPUZHA - 688 524.**
- 2. AJMAL K.K., S/O.KHALID, AGED 19 YEARS,
RESIDING AT MALIYEKKAL HOUSE,
PANAYAPPILLI POST, NEAR FORT COCHIN,
COCHIN - 682 011.**
- 3. UNITED INDIA INSURANCE COMPANY LTD.,
DIVISIONAL OFFICE, WHITE LINE BUILDING,
KALLAI ROAD, KOZHIKODE - 673 001.**

**R3 BY ADV. SRI.P.M.M.NAJEEB KHAN
R BY SRI.JOHN JOSEPH VETTIKAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

P.B.SURESH KUMAR, J

M.A.C.A.No.479 of 2014

Dated this the 17th day of March, 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 conductor. The accident took place on 20.04.2012. The claimant was aged 20 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.51,000/- and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance policy at the time of accident, the insurer 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.A2 is the wound certificate issued to the claimant by the doctor who examined him at the Medical College Hospital, Kozhikode. The Tribunal found that the claimant sustained various injuries in the accident including fracture of both bones of his right leg, a lacerated wound 5x3x2cm over his right eyebrow, a lacerated wound on his right knee, fracture of his right frontal bone etc. The Tribunal also found that the claimant was admitted for the treatment as inpatient in the Medical College Hospital for 20 days.

5. As noticed above, the claimant is a conductor. In the nature of the injuries sustained by him, I am of the view that the claimant is entitled to compensation for loss of earnings for a period of four months reckoning his monthly income at Rs.5,000/-. He was granted only a sum of Rs.6,000/- by the Tribunal by way of compensation on that head. The claimant is therefore entitled to a further sum of Rs.14,000/- on that head. Though the claimant had been treated as inpatient in the Medical College Hospital for 20 days, no compensation is seen awarded towards bystander's expenses. Since the accident took place in the year 2012,

according to me, the claimant is entitled to a sum of Rs.5,000/- towards bystander's expenses. Only a sum of Rs.1,500/- is seen granted by the Tribunal towards extra nourishment. In the nature of the injuries sustained by the claimant and the treatment undergone by him, I am of the view that the claimant is entitled to a sum of Rs.3,500/- more towards extra nourishment. Towards loss of amenities and enjoyments of life, only a sum of Rs.5,000/- is seen granted. In the facts and circumstances of the case, I am of the view that the claimant is entitled to a further sum of Rs.10,000/- on that head. Thus, the claimant is entitled to a further sum of Rs.32,500/- by way of 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.32,500/- to the claimant by way of compensation. Needless to say, the claimant will be entitled

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to interest for the whole amount of compensation at the rate of
9% per annum.

Sd/-
P.B.SURESH KUMAR
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE