

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR**

**WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937**

**MACA.No. 1799 of 2015**  
-----

**OPMV 970/2010 MOTOR ACCIDENTS CLAIMS TRIBUNAL, IRINJALAKUDA  
DATED 24-02-2015**  
.....

**APPELLANT(S)/PETITIONERS 2 TO 4:**  
-----

1. SUBRAN, AGED 54, S/O.DECEASED KUNJAYYAPPAN,  
MURINGOOKKARAN HOUSE, THIRUTHIPARAMBU DESOM,  
ALLOOR VILLAGE, P.O., THRISSUR DISTRICT.
2. AMMINI, AGED 51, D/O.DECEASED KUNJAYYAPPAN,  
MURINGOOKKARAN HOUSE, THIRUTHIPARAMBU DESOM,  
ALLOOR VILLAGE, P.O., THRISSUR DISTRICT.
3. AYYAPPAN, AGED 48, S/O.DECEASED KUNJAYYAPPAN,  
MURINGOOKKARAN HOUSE, THIRUTHIPARAMBU DESOM,  
ALLOOR VILLAGE, P.O., THRISSUR DISTRICT.

**BY ADV. SRI.V.BINOY RAM**

**RESPONDENT(S):**  
-----

1. DAVIS, S/O.JOSEPH, PADAMADAN HOUSE,  
CHALAKUDY VILLAGE, THRISSUR DISTRICT, PIN - 680 307.
2. THE BRANCH MANAGER,  
UNITED INDIA INSURANCE COMPANY LTD.,  
SOUTH CHALAKUDY, THRISSUR DISTRICT, PIN - 680 307.

**BY ADV. SRI.JOHN JOSEPH VETTIKAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN  
FINALLY HEARD ON 15-07-2015, THE COURT ON THE SAME  
DAY DELIVERED THE FOLLOWING:**

**msv/**

**P.B.SURESH KUMAR, J.**

-----  
**M.A.C.A.No. 1799 of 2015**

-----  
**Dated this the 15<sup>th</sup> day of July, 2015**

**JUDGMENT**

The claimants in a proceedings for compensation before the Motor Accidents Claims Tribunal have come up in this appeal challenging the quantum of compensation granted.

2. The claimants are the legal representatives of one Kunjayyapan, who sustained injuries in the accident took place on 5.12.2008, involving a vehicle owned and driven by the first respondent. The second respondent was the insurer of the vehicle. The injured was aged 78 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 claimants are entitled to only a sum of Rs.65,960/- and

accordingly, an award was passed directing the second respondent to pay the said amount to the claimants. The claimants are aggrieved by the award of the Tribunal and hence this appeal.

3. Heard the learned counsel for the appellants.

4. Ext.A2 is the wound certificate. The Tribunal found that the injured sustained an open fracture of tibia ® leg in the accident. Ext.A5 is the discharge summary issued to the injured from the hospital where he was admitted and treated for the injuries sustained by him in the accident. The Tribunal found that the injured had undergone inpatient treatment for about 40 days. As regards the quantum of compensation, the Tribunal granted among others, a sum of Rs.25,000/- towards pain and sufferings, a sum of Rs.20,000/- towards loss of amenities, a sum of Rs.6,000/- towards bystander's expenses, a sum of Rs.7,000/- towards loss of earnings and a sum of Rs.500/- towards extra nourishment.

5. On a close scrutiny of the impugned award, I am of the view that the compensation granted to the injured by the Tribunal on the aforesaid heads, except on the heads extra nourishment and bystander's expenses, are just and reasonable. As regards the compensation towards extra nourishment, according to me, since the injured had undergone inpatient treatment for about 40 days in the hospital, the claimants should have been granted some more amount towards compensation on that head, which I fix at Rs.2,500/-. Likewise, since the accident took place in the year 2008, the injured should have been granted a sum of Rs.250/- per day towards bystander's expenses. Thus, the claimants are entitled to a further sum of Rs.4,000/- on that head as well. Thus, the claimants are entitled to a further sum of Rs.6,500/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7.5% 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.6,500/- to the claimants by way of compensation. Needless to say, the claimants will be entitled to interest for the whole amount of compensation at the rate of 9% per annum.

**P.B.SURESH KUMAR, JUDGE.**

smm