

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

**PRESENT:**

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

**THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937**

**MACA.No. 1818 of 2015**  
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**O.P(MV)NO.201/2012 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,  
MUVATTUPUZZHA**  
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**APPELLANT(S)/PETITIONER :**  
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**SHAJI, S/O.JOSEPH,  
BALAKUNNEL HOUSE, NADUKANNI P.O, KEERAMPARA VILLAGE,  
KOTHAMANGALAM.**

**BY ADV. SRI.SHINDO VARGHESE**

**RESPONDENT(S)/RESPONDENTS :**  
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**1. RAJAN P.S.,  
S/O. SUBRAMANYAN, PUTHENPURACKAL HOUSE, KEERAMPARA P.O,  
KEERAMPARA VILLAGE, KOTHAMANGALAM- 686 681.**

**2. THE ORIENTAL INSURANCE CO.LTD.,  
BRANCH OFFICE, KOTHAMANGALAM- 686 691,  
REPRESENTED BY BRANCH MANAGER**

**R2 BY ADV. SRI.P.JAYASANKAR  
BY ADV. SMT.K.S.SANTHI**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY  
HEARD ON 03-09-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

Msd.

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

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**M.A.C.A.No.1818 of 2015.**

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Dated this the 3<sup>rd</sup> day of September, 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 is a Salesman. The accident took place on 5.7.2011. A sum of Rs.50,000/- 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.14,458/- 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 second respondent, the insurer.

4. Ext.A5 is the wound certificate and Ext.A6 is the treatment certificate issued to the claimant from Mar Baselios Medical Mission Hospital, Kothamangalam. The Tribunal found from Exts.A5 and A6 certificates that the claimant sustained fracture of the second, third and fifth metatarsal bones of his right foot. Ext.A6 treatment certificate indicates that Plaster of Paris was applied below his right knee as part of the treatment. The compensation due to the claimant is to be determined on the basis of the aforesaid facts.

5. As noticed above, the claimant is a salesman. The Tribunal granted only a sum of Rs.4,000/- to the claimant towards compensation for loss of earnings. Since Plaster of Paris was applied on the right foot of the claimant below knee, it is only reasonable to infer that the claimant

could not have worked at least for a period of two months. I am, therefore, of the view that the claimant is entitled to compensation for loss earnings for a period of two months. Since the accident took place in the year 2011, according to me, the claimant is entitled to compensation for loss of earnings, reckoning his monthly income at Rs.6,000/-. The claimant is, therefore, entitled to a further sum of Rs.8,000/- on that head. Despite the injuries referred to above, it is seen that only a meagre amount of Rs.5,000/- is granted to the claimant by way of compensation towards pain and sufferings. According to me, the claimant is entitled to a further sum of Rs.10,000/- on that head. Likewise, towards loss of amenities and enjoyments in life, only a sum of Rs.3,000/- has been granted to the claimant. According to me, having regard to the nature of injuries sustained by the claimant, he is entitled to a further sum of Rs.7,500/- on that head. No compensation is seen granted to the claimant towards transport to hospital. A nominal amount of Rs.500/-

is therefore granted to the claimant on that head. Likewise, no compensation is granted towards damage to clothes and articles. A nominal amount of Rs.500/- is granted to the claimant on that head also. Again, no amount is granted by way of compensation towards extra nourishment. On an evaluation of the materials on record, I am of the view that it is just and proper to award a sum of Rs.2,000/- towards extra nourishment. Thus, the claimant is entitled to a further sum of Rs.28,500/- towards 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.28,500/- 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)**

***Kvs/-***

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***PA TO JUDGE.***