

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

MACA.No. 1877 of 2015 ()

**(AGAINST THE AWARD IN OP(MV).NO. 1150/2005 OF PRINCIPAL MOTOR ACCIDENTS
CLAIMS TRIBUNAL, KOZHIKODE DATED 16-09-2009)**

APPELLANT/PETITIONER:-

**MUHAMMED ANAS,S/O.MUHAMMED, AGED 29 YEARS,
CHOLAYIL HOUSE, PALAKUTTI,
KODUVALLY POST, KOZHIKODE.**

**BY ADVS.SRI.V.S.CHANDRASEKHARAN
SRI.M.V.DAS
SMT.LEKSHMI SWAMINATHAN
SMT.MARIAN G.M.THARAKAN
SRI.S.JAYAKUMAR**

RESPONDENT/1ST RESPONDENT:-

**THE MANAGING DIRECTOR,
K.S.R.T.C., THIRUVANANTHAPURAM - 695 001.**

BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR, SC, KSRTC

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 13-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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P.B.SURESH KUMAR, J.

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M.A.C.A.No.1877 of 2015.

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Dated this the 13th day of August, 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 was a salesman. He was aged 20 years at the time of accident. The accident took place on 23.4.2005. 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.26,750/- 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. The claimant sustained various injuries in the accident including fracture of the fifth meta tarsal. He was admitted and treated as inpatient in the hospital for five days from 7.5.2005 to 12.5.2005. The Tribunal found that the claimant had undergone a surgical procedure on 10.5.2005 in the course of his treatment.

5. Coming to the quantum of compensation, it is seen that a sum of Rs.4,000/- was granted to the claimant towards compensation for loss of earnings. Since the accident took place in the year 2005, according to me, the Tribunal should have granted at least a sum of Rs.9,000/- to the claimant towards loss of earnings for a period of two months reckoning his monthly income at Rs.4,500/-. The claimant is, therefore, entitled to a further sum of Rs.5,000/- towards compensation for loss of earnings. Towards extra nourishment, no compensation is seen granted. The claimant is entitled to a sum of Rs.2,000/- towards

compensation on that head also. Though a sum of Rs.14,000/- has been granted by the Tribunal towards pain and sufferings, only a sum of Rs.1,000/- is seen granted towards loss of amenities and enjoyments in life. Having regard to the nature of the injuries sustained by the claimant, I am of the view that the claimant is entitled to a sum of Rs.9,000/- more towards compensation for loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.16,000/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7% 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.16,000/- 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, except for the period of delay in filing the appeal, viz., 2037 days as ordered in C.M.Application No.2085 of 2015.

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

Kvs/-

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PA TO JUDGE.