

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 5TH DAY OF AUGUST 2015/14TH SRAVANA, 1937

MACA.No. 1921 of 2015 ()

OPMV 489/2011 of ADDL. MOTOR ACCIDENTS CLAIMS TRIBUNAL, NORTH PARAVUR

APPELLANT/PETITIONER :

**SANTHOSH, S/O.SEKHARAN,
ANJILIKKAL HOSUE, CHIRAKKAKKOM, VARAPPUZHA.**

BY ADV. SRI.A.N.SANTHOSH

RESPONDENT/3RD RESPONDENT :

**RELIANCE GENERAL INSURANCE CO. LTD.
XL/3599, 4TH FLOOR
ELIZABETH ALEZANDER MEMORIAL BUILDING,
SHANMUGHAM ROAD, MARINE DRIVE, KOCHI-682031.**

BY SMT.K.S.SANTHI

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 05-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

P.B.SURESH KUMAR, J.

M.A.C.A.No.1921 of 2015

Dated this the 5th 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 claimant is a mason. The accident took place on 3.7.2011. The claimant was aged 39 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.25,000/- and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance

policy, 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 fracture of the second meta carpel head in the accident. He also suffered loosening of teeth. Ext.A5 is the discharge summary issued to the claimant from M.A.J. Hospital, Edappally. Ext.A5 discharge summary, a copy of which is made available to me at the time of hearing, indicates that the claimant sustained loosening of eight upper teeth in the accident.

5. Coming to the quantum of compensation, the Tribunal granted compensation to the claimant for loss of earnings for a period of two months, reckoning his monthly income at Rs.4,000/-. Since the accident took place in the year 2011 and since the claimant is a mason, according to me, the monthly income of the claimant should have been reckoned by the Tribunal at Rs.6,000/-. The claimant, in the

circumstances, is entitled to a further sum of Rs.4,000/- towards loss of earnings. Towards pain and sufferings, despite the aforesaid injuries, only a sum of Rs.5,000/- is seen granted to the claimant by the Tribunal. Having regard to the nature of injuries sustained by the claimant, I am of the view that the claimant is entitled to a further sum of Rs.10,000/- on that head. Only a sum of Rs.4,000/- is seen granted towards compensation for loss of amenities and enjoyments in life. On an appraisal of the materials on record, especially having regard to the fact that the claimant sustained loosening of eight teeth, I am of the view that the claimant should have been granted a sum of Rs.10,000/- towards loss of amenities and enjoyments in life also. Thus, the claimant is entitled to a further sum of Rs.6,000/- on that head. The claimant is, therefore, entitled to a further sum of Rs.20,000/- 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.20,000/- 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