

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

MACA.No. 1422 of 2011

OP(MV) 82/2009 OF PRINCIPAL MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE.
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APPELLANT/PETITIONER:

**NIJAS (MINOR), AGED 8 YEARS,
31/3/01, REPRESENTED BY HIS
FATHER & LEGAL GUARDIAN,
MUSTHAFA S/O.AHAMEDKOYA,
AGED 32 YEARS, ILLAPARAMBIL (H),
P.O.GURUVAYOORAPPAN COLLEGE,
KACHERIKUNNU, KOZHIKODE.**

**BY ADVS.SRI.V.S.CHANDRASEKHARAN
SMT.LEKSHMI SWAMINATHAN**

RESPONDENT(S)/RESPONDENTS:

- 1. RIJESH,
AGE & FATHER'S NAME NOT KNOWN,
3/738(46/421)PALAKKAD HOUSE,
P.O.NADAKKAVU, KOZHIKODE - 673 001.**
- 2. ROOPESH KRISHNAN,
S/O.CHANDRASEKHARAN NAIR,
AGE NOT KNOWN, RESIDING AT KRISHNAKRIPA,
KRISHFAKADAVU ROAD, KANNADIKKAL,
KOZHIKODE - 673 008.**
- 3. NEW INDIA ASSURANCE CO.LTD.,
SILVER PLAZA BUILDING, L.G.ROAD,
KOZHIKODE - 673 002.**

R3 BY ADV.SMT.SREEKALA

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

P.B.SURESH KUMAR, J.

M.A.C.A.No.1422 of 2011.

Dated this the 30th day of March, 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 student. He was aged 8 years at the time of accident. The accident took place on 29.10.2008. 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.22,833/- 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.

3. Heard the learned counsel for the claimant and the learned counsel for the insurer.

4. Ext.A2 is the wound certificate produced by the claimant. The Tribunal found that the claimant sustained fracture of his left femur and multiple injuries all over his body. Ext.A4 is the discharge card produced by the claimant. From Ext.A4, the Tribunal found that the claimant was admitted and treated in the hospital as inpatient from 29.10.2008 to 8.11.2008.

5. Despite the injuries referred to above, the Tribunal granted only a sum of Rs.2,000/- to the claimant towards loss of amenities and enjoyments in life. According to me, in the nature of the injuries sustained by the claimant, he is entitled to a further sum of Rs.8,000/- on that head. Towards compensation for pain and sufferings, it is seen that the Tribunal granted a sum of Rs.16,000/-. In the nature of the injuries sustained and the treatment undergone by the claimant, I am of the view that he is entitled to a further a sum of Rs.4,000/- on that head.

Towards extra nourishment, only a sum of Rs.500/- is seen granted. Having regard to the age of the claimant and the injuries sustained by him, I am of the view that the claimant is entitled to a further sum of Rs.2,500/- towards extra nourishment. Towards bystander's expenses, only a sum of Rs.1,000/- is seen granted by the Tribunal. Since the accident took place in the year 2008, according to me, the claimant is entitled to a sum of Rs.1,500/- more towards bystander's expenses. 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., 445 days as ordered in C.M.Application No.2163 of 2011.

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

Kvs/-

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PA TO JUDGE.