

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. 1423 of 2011 ()

OPMV 226/2007 OF PRL. MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE.

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APPELLANT/PETITIONER:

**LATHEESH, S/O.BALAN NAIR, AGED 26 YEARS,
RESIDING AT KUNNOTH PARAMBATH HOUSE,
P.O. CHEEKKILODE, VIA. ATHOLY, KOZHIKODE.**

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

RESPONDENTS/RESPONDENTS:

***1. NADEER T.M., AGE NOT KNOWN,
RESIDING AT THIRUVOTH MEETHAL HOUSE,
P.O. CHEEKKILODE, ATHOLY, KOZHIKODE-673 008. (DELETED)**

*** RESPONDENT NO.1 IS DELETED FROM THE PARTY ARRAY
AS PER ORDER DATED 23/03/2015 IN MACA N.1423/2011.**

**2. T.P. BALAKRISHNAN, S/O.PIRUNGAN,
AGED 38 YEARS, RESIDING AT THALAPARAMBATH HOUSE,
P.O. CHEEKKILODE, ATHOLY, KOZHIKODE-673 008.**

**3. THE ORIENTAL INSURANCE CO.LTD.,
DIVISIONAL OFFICE, SEEMA BUILDING,
G.H. ROAD, KOZHIKODE-673 003.**

**R2 BY ADVS. SRI.T.K.SANDEEP,
SRI.ARJUN SREEDHAR,
SRI.ARUN KRISHNA DHAN,
SRI.JOSEPH GEORGE (MULLAKKARIYIL).**

**R3 BY ADV. SMT.A.SREEKALA.
ADV. SRI.GEORGE CHERIAN (THIRUVALLA).**

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

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.1423 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 is a welder. He was aged 26 years at the time of accident. The accident took place on 16.9.2006. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.42,359/- 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. The claimant sustained fracture of the right femur and tibia. Ext.A2 is the wound certificate produced by the claimant. Ext.C1 is the disability certificate issued to the claimant by the competent authority assessing his permanent disability at 5%. The Tribunal granted only a sum of Rs.5,000/- towards compensation for loss of earnings for two months reckoning his monthly income at Rs.2,500/-. Since the accident took place in the year 2006, I am of the view that the monthly income of the claimant should have been reckoned at Rs.4,500/-. The claimant is therefore, entitled to a further sum of Rs.4,000/- on that head. A sum of Rs.25,500/- was granted by the Tribunal towards compensation for continuing disability, reckoning his monthly income at Rs.2,500/- and the disability at 5% applying the multiplier '17'. As I have found that the monthly income of the claimant is liable to be reckoned at Rs.4,500/-, the claimant is entitled to a further sum of

Rs.20,400/- towards compensation on that head. Towards pain and sufferings, it is seen that the Tribunal granted only a sum of Rs.10,000/-. In the nature of the injuries sustained by the claimant, I am of the view that he is entitled to a further sum of Rs.5,000/- on that head also. Thus, the claimant is entitled to a further sum of Rs.29,400/- towards compensation.

5. 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.29,400/- 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, except for the period of delay in filing the appeal, viz., 339 days, as ordered in C.M.Application

M.A.C.A.No.1423/2011.

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No.2162 of 2011.

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

Kvs/-

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PA TO JUDGE.