

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. 1432 of 2011

**OP(MV) 179/2010 OF PRINCIPAL MOTOR ACCIDENTS CLAIMS TRIBUNAL,
KOZHIKODE.**
.....

APPELLANT/PETITIONER:

**SANTHOSH K., S/O.RAGHAVAN,
AGED 41 YEARS, KAMPURATH HOUSE,
PERULI PARAMBA P.O, ELATHUR, KOZHIKODE.**

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

RESPONDENT(S)/RESPONDENTS:

- 1. SHOBY CHACKO,
AGE AND FATHER'S NAME NOT KNOWN,
KAKKUZHIYIL HOUSE, POOKKATTUPADY,
EDATHALA, ERNAKULAM, PIN - 683561.**
- 2. SHARATH LAL, S/O.A.K.SHANKARAN MENON,
AGED 38 YEARS, VALAPPIL HOUSE,
PANTHALAYANI AMSOM, KOYILANDY-673006.**
- 3. THE NEW INDIA ASSURANCE CO.LTD.,
DIVISIONAL OFFICE, SILVER PLAZA BUILDINGS,
IG ROAD, KOZHIKODE-673003.**

**R3 BY ADV. SRI.LAL GEORGE
BY SRI.A.A.ZIYAD RAHMAN**

**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.1432 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 Driver. He was aged 41 years at the time of accident. The accident took place on 27.5.2009. 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.12,730/- 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 a lacerated wound over his nose and fracture of nasal bone. The Tribunal granted a sum of Rs.2,500/- towards compensation for loss of earnings for a period of one month. Since the accident took place in the year 2009, I am of the view that the monthly income of the claimant is liable to be reckoned at Rs.7,500/-. The claimant is, therefore, entitled to a further sum of Rs.5,000/- towards compensation on that head. Towards pain and sufferings, despite the aforesaid injuries, the Tribunal granted only a sum of Rs.7,000/- by way of compensation. In the nature of injuries sustained by the claimant, I am of the view that the claimant is entitled to at least a sum of Rs.15,000/- on that head. The claimant is, therefore, entitled to get a further sum of Rs.8,000/- towards compensation for pain and sufferings. Towards

compensation for loss of amenities and enjoyments in life, it is seen that the Tribunal granted only a sum of Rs.1,000/-. In the nature of the injuries sustained and the treatment undergone by him, he has to be granted a sum of Rs.5,000/- more on that head. Thus, the claimant is entitled to a further sum of Rs.18,000/- 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.18,000/- 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, except for the period of delay in filing the

M.A.C.A.No.1432/2011.

4

appeal, viz., 286 days as ordered in C.M.Application No.2180 of 2011.

Sd/P.B.SURESH KUMAR, JUDGE.

Kvs/-

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PA TO JUDGE.