

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

MACA.No. 165 of 2010 ()

OPMV.829/2007 OF PRINCIPAL MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE.

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APPELLANT/CLAIMANT:

**N.K. JANEESHKUMAR, S/O.JANARDHANAN,
AGED 30 YEARS, NALUKANDIYIL HOUSE,
PILASSERY POST, KOZHIKODE DISTRICT.**

BY ADV. SMT.K.V.RESHMI.

RESPONDENTS/RESPONDENTS:

- 1. T.V. ABDUL SALAM, S/O.KHADER,
THAZHATHU VEETIL HOUSE, KODUVALLY,
P.O. KARUVAMPOYIL, KOZHIKODE.**
- 2. MOHAMMED. K.K., S/O.ABDURAHIMAN,
KAKKANDATHIL HOUSE, P.O. KODUVALLY,
KARUVAMPOYIL, KOZHIKODE.**
- 3. THE NEW INDIA ASSURANCE CO. LTD,
DIVISIONAL OFFICE, SILVER PLAZA BUILDING,
I.G. ROAD, KOZHIKODE.**

R3 BY ADV. SMT.T.C.SOWMIAVATHY.

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 16-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.165 of 2010

Dated this the 16th day of July, 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 carpenter. The accident took place on 17.12.2006. The claimant was aged 28 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.24,009/- 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 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. Ext.A2 is the copy of the wound certificate produced by the claimant. From Ext.A2 and other documents produced by the claimant, the Tribunal found that the claimant sustained fracture of mandible and multiple facial bone in the accident.

5. It is seen that the Tribunal granted only a sum of Rs.2,500/- to the claimant towards loss of earnings. 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 by the Tribunal at Rs.5,000/-. The claimant is thus entitled to a further sum of Rs.2,500/- towards loss of earnings. No compensation is seen granted to the claimant towards extra nourishment. On an evaluation of the materials on record, I am of the view that the claimant is

entitled to a sum of Rs.2,500/- towards extra nourishment also. Though the Tribunal granted a sum of Rs.17,500/- to the claimant towards pain and sufferings, only a sum of Rs.2,500/- is seen granted towards loss of amenities. Having regard to the nature of injuries sustained by the claimant, I am of the view that the compensation granted to the claimant towards loss of amenities is unreasonably low. According to me, the said compensation is also liable to be revised to Rs.10,000/-. Therefore, the claimant is entitled to a further sum of Rs.7,500/- on that head. Thus, the claimant is entitled to a further sum of Rs.12,500/- 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.12,500/- 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