

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

MACA.No. 1467 of 2011 ()

**(AGAINST THE AWARD IN OP(MV).NO. 763/2009 OF MOTOR ACCIDENT CLAIMS
TRIBUNAL, KOZHIKODE DATED 26-03-2010)**

APPELLANT/PETITIONER:

**JASLI RAHMAN, S/O.ABDURAHIMAN,
AGED 36 YEARS, A.K.MANZIL, KOZHIPULLIPARAMBU,
P.O.KOLLATAHARA, KOZHIKODE.**

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

RESPONDENT(S)/RESPONDENTS:

- 1. ABDUL AZEES P, S/O.MUHAMMEDKUTTY
PERINGADAN, AGED NOT KNOWN, PERINGADAN HOUSE,
PALACHIVAMAD, EDANIKODE, MALAPPURAM-686 001.**
- 2. SIDDIQUE A., S/O.KUTTY MIHAMMED,
AGED NOT KNOWN, 25/08, AALANGOTT HOUSE,
P.O.PONMULA, MALAPPURAM-686 008.**
- 3. THE NATIONAL INSURANCE COM LTD,
NOOR COMPLEX, ARAYIDATHUPALAM, MAVOOR ROAD,
KOZHIKODE-673 003.**

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

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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P.B.SURESH KUMAR, J.

M.A.C.A.No.1467 of 2011.

Dated this the 6th day of April, 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 self employed person. He was aged 36 years at the time of accident. The accident took place on 21.9.2008. 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.8,495/- 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 copy of the wound certificate produced by the claimant. The Tribunal found that the claimant sustained fracture of upper teeth, multiple abrasion over the face and forehead, fracture of the left big toe, a lacerated wound on the upper lip and injuries on the nose in the accident. Ext.A5 is the treatment certificate. There was no inpatient treatment.

5. The Tribunal granted only a sum of Rs.800/- towards loss of earnings. In the nature of the injuries sustained and the treatment undergone by the claimant, according to me, he is entitled to compensation for loss of earnings for a period of one month, reckoning his monthly income at Rs.4,500/-. The claimant is, therefore, entitled to a further sum of Rs.3,700/- towards compensation for loss of earnings. It is seen that the Tribunal granted a sum of Rs.6,000/- to the claimant towards compensation for pain and sufferings. Having regard to the injuries sustained by the claimant, I am of the view that the claimant is entitled

to a further sum of Rs.4,000/- towards compensation for pain and sufferings. Towards loss of amenities and enjoyments in life, the Tribunal granted only a sum of Rs.500/- as against the claim of Rs.10,000/-. On an evaluation of the materials on record, I am of the view that the claimant is entitled to a further sum of Rs.3,500/- towards compensation on that head. Thus, the claimant is entitled to a further sum of Rs.11,200/- 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.11,200/- 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.1467/2011.

4

appeal, viz., 425 days as ordered in C.M.Application No.2246 of 2011.

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

Kvs/-

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PA TO JUDGE.