

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

MACA.No. 1952 of 2013 (C)

O.P.(MV)NO.570/2010 OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALA

APPELLANT/PETITIONER :-

**SARADA, W/O. SHAJI,
VATTAKUNNEL HOUSE,
KURYANNADU P.O.,
POOVATHUNKAL BHAGOM,
KOTTAYAM DISTRICT.**

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)

RESPONDENTS/RESPONDENTS :-

- 1. JOBIN VARGHESE, S/O. VARGHESE,
MUNNAKKATTU HOUSE, NEAR LATIN CHURCH,
KUZHITHOLU, SWARAJ BHAGOM,
AYYAPPANKOVIL KARA,
KANCHIYAR VILLAGE, IDUKKI DISTRICT,
PIN - 685 511.**
- 2. THE PROPRIETOR,
JESUS CRUSHING METALS,
MEMURY P.O., KOTTAYAM,
PIN - 686 001.**
- 3. THE NEW INDIA ASSURANCE COMPANY LTD.,
REPRESENTED BY ITS DIVISIONAL MANAGER,
KOTTAYAM, PIN - 686 001.**

**R2 BY ADVS. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR
R3 BY ADV. SMT.RAJI T.BHASKAR
R BY SRI.A.A.ZIYAD RAHMAN**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

P.B.SURESH KUMAR, J.

M.A.C.A.No.1952 of 2013.

Dated this the 17th day of March, 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 coolie. The accident took place on 05.03.2010. The claimant was aged 39 years at the time of accident. A sum of ₹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 ₹52,345/- 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. The claimant is aggrieved by the said award.

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

4. The injuries sustained by the claimant as noted by the Tribunal are the following;

1. Injury to nose and head ache.
2. Lacerated wound 2 x 1 cm over dorsum of nose.
3. Abrasions of mucosa over inner aspect of upper lip.
4. Tenderness over upper incisor.
5. Mobility of 4 teeth of upper jaw.
6. Mobility of two teeth of lower jaw.
7. Traumatic oedema of 3 teeth of upper jaw.
8. Pain and swelling over left thigh.

The claimant suffered mobility of four teeth of the upper jaw and two teeth of the lower jaw. She has also suffered other injuries. Ext.A13 produced by the claimant is the treatment certificate issued to her from the Department of Oral and Maxillofacial Surgery, Government Dental College, Kottayam. Ext.A15 is a certificate issued by Dr.Johny V. Thomas dated 11.09.2012. Copies of Exts.A13 & A15 were made available to me at the time of hearing. It is seen that the claimant suffered a traumatic oedema of three teeth of the upper jaw. In Ext.A15 certificate, the Doctor indicated the cost of fixation of crown and bridge for eight teeth. Though the costs required to be spent by the claimant as certified by the Doctor cannot be

accepted, the fact that the claimant had to fix crown and bridge for eight teeth has to be accepted. Only a sum of ₹7,000/- is granted by the Tribunal towards future treatment expenses. According to me, in the nature of the injuries sustained by the claimant, she is entitled to a further sum of ₹7,000/- towards future treatment expenses. Though the claimant suffered mobility to six teeth, no compensation is seen granted towards continuing the disability. In the absence of any disability certificate, she has to be compensated for the said disability under the head loss amenities and enjoyments in life. Only a sum of ₹7,000/- is seen granted towards compensation for loss of amenities and enjoyments of life. According to me, the claimant is entitled to a further sum of ₹8,000/- towards loss of amenities and enjoyments of life. It is seen that the claimant was awarded an amount of ₹15,000/- towards pain and sufferings. In the nature of the injuries, the claimant is entitled to a sum of ₹5,000/- more towards compensation for pain and sufferings. Thus the claimant is entitled to a further sum of ₹20,000/-

towards compensation.

5. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7.5% 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.20,000/- 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 appeal, viz., 116 days as ordered in C.M.Application No.2396 of 2013.

rkj

Sd/-
P.B.SURESH KUMAR
JUDGE

//TRUE COPY//

P.A. TO JUDGE