

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

MACA.NO. 1647 OF 2011

**O.P.(MV)NO. 266/2008 OF 1ST ADDITIONAL MOTOR ACCIDENT CLAIMS
TRIBUNAL, KOZHIKODE**

APPELLANT(S)/PETITIONER IN OP(MV) :

**K.T.SIVADASAN, S/O.KUMARAN,
KOTTAMTHALAYIL THAZHATH HOUSE,
P.O.ERANHIKKAL, AMBALAPPADI, KOZHIKODE.**

**BY ADVS.SRI.A.V.M.SALAHUDIN
SMT.P.Y.SHEHEERA**

RESPONDENT(S)/RESPONDENTS IN OP(MV):

- 1. NAFI, S/O.HAMZA,
KIZHAKKE PEEDIKAYIL (H), P.O.CHOKLY,
THALASSERY- 670 672.**
- 2. ASLAMK.P, S/O.MAHAMOOD,
VALIYADIYIL HOUSE, GRAMATHY, P.O.CHOKLY,
THALASSERY, KANNUR- 670 672.**
- 3. THE ORIENTAL INSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE, SEEMA BUILDING, GH ROAD,
KOZHIKODE- 673 001.**

**R3 BY ADV. SRI.P.JACOB MATHEW
ADV. SRI.GEORGE CHERIAN (THIRUVALLA)**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 23-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

PB.SURESHKUMAR, J.

M.A.C.A. No.1647 OF 2011

Dated this the 23rd day of February, 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 driver. The accident took place on 8.7.2007. The claimant was aged 38 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.87,500/- 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. Ext.A2 is the wound certificate issued to the claimant from Medical College Hospital, Kozhikode. The Tribunal noticed that the claimant sustained hip fracture in the accident. He was treated as inpatient in the hospital for ten days. Ext.C1 is the disability certificate issued to the claimant from the Medical College Hospital, Kozhikode. Ext.C1 reveals that the claimant sustained 8% permanent disability.

5. The Tribunal granted to the claimant a sum of Rs.57,600/- towards compensation for permanent disability. The Tribunal has also granted a sum of Rs.8,000/- towards loss of earnings and a sum of Rs.3,000/- towards transport to hospital, extra nourishment, damage to clothing, etc. The Tribunal also granted a sum of Rs.15,000/- towards compensation for pain and sufferings. It is seen that the Tribunal has not granted any compensation to the claimant towards loss of amenities and enjoyments in life. In the nature of the injuries sustained by the claimant and the treatment undergone by him, I am of the view that the claimant is entitled to a sum of Rs.10,000/- towards loss of amenities and enjoyments in life as well.

6. In the result, the appeal is allowed in part. The

compensation granted by the Tribunal is modified granting a further sum of Rs.10,000/- to the claimant by way of compensation. Needless to say, the claimant will be entitled to interest also for the enhanced compensation at the same rate at which the interest was awarded by the Tribunal for the compensation granted.

P.B.SURESHKUMAR, JUDGE

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