

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

MACA.No. 1772 of 2011 ()

OPMV 2087/2006 of M.A.C.T.,KOZHIKODE

APPELLANT/PETITIONER :

V.C.RAMANI, AGED 61 YEARS,
W/O.RAMACHANDRAN KIDAV, RESIDING AT M6-45,
AVINASH, MALAPARAMBA HOUSING COLONY,
MALAPARAMBA, KOZHIKODE.

BY ADVS.SRI.V.V.SURENDRAN
SRI.P.A.HARISH

RESPONDENT(S)/RESPONDENTS :

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1. P.T.ABDUL RAHIMAN, S/O.MOHAMMED,
PAIKKADATHODI HOUSE, PULIKKAL, POST AIKKARAPPADY,
MALAPPURAM - 673 637.
 2. T.K.ABDUL SHAMEER, FATHIMA MANZIL, PUTHIYANGADI P.O.,
KOZHIKODE 673 021.
 3. THE NATIONAL INSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE, PARCO TOWER,
P.M.TAJ ROAD, MAVOOR ROAD, MAVOOR P.O.,
KOZHIKODE 673 018.

R3 BY ADV. SMT.SARAH SALVY
R3 BY SRI.M.A.GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A.. No.1772 of 2011

Dated 9th 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 housewife. The accident took place on 18.6.2006. The claimant was aged 56 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.38,250/- 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 Tribunal noticed that the claimant sustained fracture of right pubic ramus, a lacerated wound on the right

side of forehead, contusion on the outer aspect of right leg, pain all over body etc. Ext.A2 is the wound certificate. Ext.A3 is the discharge summary issued to the claimant from the hospital, where she was admitted and treated for the injuries sustained by her. From Ext.A3, it is seen that the claimant had undergone inpatient treatment in the hospital from 18.6.2006 to 26.6.2006. The claimant had given evidence as PW1 in the proceedings. She had deposed before the Tribunal that after the accident, she had to continue prolonged Ayurvedic treatment for the injuries sustained by her in the accident.

5. Despite the fact that the claimant sustained injuries referred to above and the fact that she had undergone inpatient treatment in a hospital, the Tribunal had granted only a meager amount of Rs.2,000/- towards loss of amenities and enjoyments in life. Since no compensation is granted towards continuing permanent disability, I am of the view that the claimant has to be adequately compensated under the head loss of amenities and enjoyments in life. On an evaluation of the materials on record, I am of the view that the claimant is entitled to a further sum of Rs.13,000/- towards compensation for loss of amenities and enjoyments in life. Towards extra-nourishment, no compensation is seen granted by the Tribunal. Taking note of the injuries sustained by the claimant, she has

to be granted a sum of Rs.3,000/- towards compensation for extra-nourishment. Thus, the claimant is entitled to a further sum of Rs.16,000/- 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.16,000/- 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., 439 days as ordered in C.M.Application No.2662 of 2011.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)