

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

MACA.No. 2242 of 2013

**AGAINST THE AWARD IN OP(MV) 599/2012 of MOTOR ACCIDENTS CLAIMS TRIBUNAL,
KOZHIKODE, DATED 27-12-2012**

APPELLANT/PETITIONER:

**SREEJITH.A.K, AGED 33 YEARS
S/O. SREEDHARAN A.K., NARAYANI NIVAS, COLLEGE ROAD
POST RAMANATTUKARA, KOZHIKODE-673 633.**

**BY ADVS.SRI.R.SUDHISH
SMT.M.MANJU
SRI.K.R.RANJITH**

RESPONDENT(S)/RESPONDENTS:

- 1. SUBRAMANIAN,
S/O DAMU, 3/665 CHIRAKKAMKUNNU HOUSE
RAMANATTUKARA POST, KOZHIKODE-673 633.**
 - 2. SUBINDAS,
S/O KRISHNADAS P, SOUMYA HOUSE, RAMANATTUKARA POST
KOZHIKODE-673 633.**
 - 3. ORIENTAL INSURANCE COMPANY LIMITED
DIVISIONAL OFFICE, IIND FLOOR, PRAMOD BUILDING
CHEROOTTY ROAD, KOZHIKODE-673 001.**
- R1,R2 BY ADV. SRI.S.RENJITH
R3 BY SRI.GEORGE CHERIAN (THIRUVALLA)
R3 BY ADV. SRI.P.V.JYOTHI PRASAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

P.B.SURESH KUMAR, J.

M.A.C.A.No.2242 of 2013.

Dated this the 23rd day of 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 coolie. He was aged 32 years at the time of accident. The accident took place on 1.2.2012. 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.10,853/- 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 claimant sustained open comminuted fracture of the right little toe with bone loss in the accident. Ext.A2 is the wound certificate issued to the claimant from the Medical College Hospital, Kozhikode. The Tribunal had granted only a sum of Rs.7,000/- towards pain and sufferings to the claimant. In the nature of the injuries sustained by the claimant, according to me, he is entitled to a further sum of Rs.3,000/- towards compensation on that head. No compensation is seen granted by the Tribunal towards loss of amenities and enjoyments in life. According to me, the claimant is entitled to a sum of Rs.3,000/- towards compensation on that head. It is seen that no compensation is granted to the claimant for loss of earnings. Since the claimant is a coolie and was aged 32 years at the time of accident, in the nature of the injuries sustained by him, according to me, he is entitled to a sum of Rs.5,000/- towards compensation for loss of earnings as well. Thus, the claimant is entitled to a further sum of Rs.11,000/- towards compensation.

5. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7% 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.

6. In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.11,000/- 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.

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

Kvs/-

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PA TO JUDGE.