

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

MACA.No. 1871 of 2011

O.P(M.V)NO.82/2007 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE

APPELLANT(S)/PETITIONER :

**ABDUL MANAF, AGED 21 YEARS
S/O.VEERANKOYA, RESIDING AT MELEPARAMBATH HOUSE,
P.O.KONOTTU, KARANTHOOR, KOZHIKODE DISTRICT.**

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

RESPONDENT(S)/RESPONDENTS :

- 1. M.A.JOSHI,
RESIDING AT 21/137, PLAANGATH HOUSE,
P.O.MAYYANAD, KOZHIKODE DISTRICT- 673 002.**
- 2. REEJESH V., S/O.RAJAN,
RESIDING AT VAPPANCHERY HOUSE,
P.O.OLAVANNA, KOZHIKODE DISTRICT-673 010.**
- 3. THE UNITED INDIA INSURANCE CO.LTD.,
DIVISIONAL OFFICE, WHITELINES BUILDING, KALLAI ROAD,
KOZHIKODE DISTRICT-673 006.**

**R1 BY ADV. SRI.JOHN JOSEPH VETTIKAD
R2 BY ADVS. SRI.SRINATH GIRISH
SRI.K.S.VINAYAK PRATAP
R3 BY ADV. SRI.S.ARUN RAJ**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 27-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

P.B.SURESH KUMAR, J.

M.A.C.A.No.1871 of 2011

Dated this the 27th day of July, 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 16-9-2006. The claimant was aged 21 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.31,953/- and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance

policy, 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 found, on the basis of the documents produced by the claimant, that he sustained fracture of his temporal bone and nasal bone in the accident. The Tribunal also found that the claimant had undergone inpatient treatment in the Medical College Hospital, Calicut for a period of sixteen days. The Tribunal further found that in the course of the inpatient treatment, the claimant had undergone a surgical procedure on 18.9.2006. The compensation due to the claimant need to be determined on the basis of the aforesaid facts and findings.

5. As noticed above, the claimant is a coolie and the accident took place in the year 2006. The Tribunal has granted compensation towards loss of earnings to the claimant only for a period of three months, reckoning his

monthly income at Rs.2,500/-. Since the accident took place in the year 2006, I am of the view that the monthly income of the claimant should have been reckoned by the Tribunal at Rs.4,500/-.Therefore the claimant is entitled to a further sum of Rs.6,000/- on that head. Towards extra nourishment, only a sum of Rs.1,000/- is seen granted to the claimant. Considering the nature of injuries sustained by the claimant and the treatment undergone by him, I am of the view that the claimant is entitled to a further sum of Rs.2,000/- towards compensation for extra nourishment. It is seen that towards bystander's expenses, the Tribunal has granted compensation only at the rate of Rs.100/- per day. Since the accident took place in the year 2006, according to me, he is entitled to compensation for bystander's expenses at the rate of Rs.250/- per day. Therefore, the claimant is entitled to a further sum of Rs.2,400/- on that head. Towards pain and sufferings, only a sum of Rs.15,000/- is seen granted. Having regard to the injuries sustained by the

claimant, the inpatient treatment undergone by him in the hospital for sixteen days and the surgical procedure undergone by him, I am of the view that the claimant should have been granted at least a sum of Rs.25,000/- towards pain and sufferings. Therefore, the claimant is entitled to a further sum of Rs.10,000/- on that head. Towards loss of amenities and enjoyments in life, only a sum of Rs.5,000/- is seen granted. The said compensation is also liable to be revised to Rs.10,000/-. Thus, the claimant is entitled to a further sum of Rs.25,400/- 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.

7. In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting

a further sum of Rs.25,400/- 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.

P.B.SURESH KUMAR, JUDGE.

smm