IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

MACA.No. 682 of 2010 ( )

(AGAINST THE AWARD IN OP(MV).NO. 1042/2004 OF ADDL.MOTOR ACCIDENT CLAIMS TRIBUNAL, ALAPPUZHA DATED 27-02-2009)

APPELLANT/PETITIONER:

B.RAJESH ALIAS RAJESH KUMAR,AGED 37 YEARS,
S/O.LATE SRI.PREMACHANDRAN, CHATHANATTU VELI,
CMC-22, CHERTHALA, ALAPPUZHA DISTRICT.

BY ADV. SMT.ANILA PETER

RESPONDENT(S)/RESPONDENTS :
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1. SANTHOSH, S/O.GOPALAKRISHNAN,
   KARTHIKA BHAVAN, 3RD WARD, CHERTHALA SOUTH.

2. UNITED INDIA INSURANCE COMPANY LIMITED,
   BRANCH OFFICE, N.S.S.UNION BUILDING, CHERTHALA,
   PIN-688 524.

R1 BY ADVS. SRI.BIJU ABRAHAM
SRI.R.RATHEESH
R2 BY ADVS. SMT.D.GEETHA
SMT.K.SHERIN MOHAN
SRI.N.RENJITH

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 13-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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P.B.SURESH KUMAR, J.

M.A.C.A.No.682 of 2010

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Dated this the 13th 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 accident took place on 30.3.2004**.** The claimant was aged 31 years at the time of accident. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to a sum of Rs.18,750/- 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 of the vehicle 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. From the documents produced by the claimant, the Tribunal found that the claimant sustained fracture of three fingers of his right arm. The Tribunal also found that the claimant sustained a few soft tissue injuries.

5. It is averred in the claim petition that the claimant is a journalist. It is seen that the said averment was not refuted by the contesting respondent, the insurer of the vehicle. In the absence of evidence to prove the monthly income of the claimant, I am of the view that the monthly income of the claimant should have been reckoned by the Tribunal at Rs.4,500/-. Since the claimant sustained fracture of the fingers of his right arm, the claimant being a journalist, I am of the view that he should be compensated adequately for loss of earnings at least for a period of three months. In the circumstances, the compensation granted to

the claimant towards loss of earnings is fixed at Rs.13,500/-. The claimant is, therefore, entitled to a further sum of Rs.Rs.10,500/- on that head. Towards pain and sufferings, the Tribunal granted only a sum of Rs.6,000/- to the claimant. Having regard to the injuries sustained by the claimant, I am of the view that the claimant is entitled to a further sum of Rs.9,000/- on that head. Towards loss of amenities and enjoyments in life, only a sum of Rs.6,000/- is seen granted to the claimant. According to me, the claimant has to be adequately compensated for loss of amenities and enjoyments in life also, as no compensation is being granted to him towards continuing permanent disability. The claimant is, therefore, granted a further sum of Rs.4,000/- on that head. Thus, the claimant is entitled to a further sum of Rs.23,500/- towards compensation.

6. 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.23,500/- 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.

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