

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.1993 of 2011

**(OP(MV)NO.1460/2010 OF II ADDITIONAL MOTOR ACCIDENTS CLAIMS TRIBUNAL,
KOZHIKODE DATED 20-05-2011).**

APPELLANT/CLAIMANT:

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**SOMARAJA.C GOVINDAN,KELANELLUR PADINILAM HOUSE,
CHALIKKARA,NEAR KANAKALAYA BANK,
WEST HILL POST,CALICUT-5.**

BY ADV.SMT.K.V.RESHMI

RESPONDENTS:

- 1. K.V.SOBHA,KALATHI BIBI NIVAS,7/753,
ERANHIKKAL P.O.,KOZHIKODE.**
- 2. VIBIL.K.V.,S/O.KORAPPAN.K.V.,BIBI NIVAS,
ERANHIKKAL P.O.,KOZHIKODE.**
- 3. THE NEW INDIA ASSURANCE CO.LTD.
DIVISIONAL OFFICE,SILVER PLAZA BUILDING,
L.G.ROAD,KOZHIKODE.**

**R1 & R2 BY ADV.SRI.A.A.ZIYAD RAHMAN
R3 BY SRI.N.S.MOHAMMED USMAN**

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

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P.B.SURESH KUMAR, J.

M.A.C.A.No.1993 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 coolie. The accident took place on 29.6.2010. The claimant was aged 62 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.28,961/- 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 of the claimant. A copy of Ext.A2 which was made available to me indicates that the claimant

sustained fracture of right ilium. Ext.A2 also indicates that the claimant had undergone treatment as inpatient in the hospital for 21 days and in the course of treatment, open reduction and internal fixation with plate and screws were also done on him.

5. The Tribunal granted only a sum of Rs.6,000/- towards loss of earnings for a period of two months, reckoning his monthly income at Rs.3,000/-. Since the accident took place in the year 2000, I am of the view that the claimant is entitled to a further sum of Rs.7,500/- towards loss of earnings. Towards extra-nourishment, only a sum of Rs.1,000/- is seen granted by the Tribunal. According to me, the claimant is entitled to a further sum of Rs.1,000/- towards compensation for extra-nourishment. The Tribunal granted only a sum of Rs.3,150/- towards bystander's expenses at the rate of Rs.150/- per day, for 21 days. Since the accident took place in the year 2010, I am of the view that the claimant should have been awarded bystander's expenses at the rate of Rs.250/- per day. Therefore, he is entitled to a further sum of Rs.2,100/- towards compensation for bystander's expenses. A sum of Rs.13,000/- was granted by the Tribunal as compensation towards pain and sufferings. 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

further sum of Rs.7,000/- towards compensation for pain and sufferings. Towards loss of amenities and enjoyments in life, the Tribunal has granted only a sum of Rs.3,000/- as compensation. On an evaluation of the nature of the injuries sustained by the claimant, I am of the view that the claimant has to be granted a further sum of Rs.12,000/- towards loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.29,600/- 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.29,600/- 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

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PA. to Judge