IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

MACA.No. 2536 of 2015 ()

(AGAINST THE AWARD IN OP(MV).NO. 1621/2012 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOLLAM DATED 17/04/2015)

APPELLANT/PETITIONER:

SAUDA BEEVI, D/O.SAINABA, AGED 53 YEARS,
THADAVILA VADAKKATHIL, CHERIYELA,
THRIKKOVILVATTOM, KOLLAM.

BY ADVS.SRI.PRATHEESH.P
SMT.S.SEETHA

RESPONDENT/1ST RESPONDENT:

THE MANAGING DIRECTOR,
KERALA STATE ROAD TRANSPORT CORPORATION,
THIRUVANANTHAPURAM- 695 001.

BY ADV. SRI.P.C.CHACKO, SC, KERALA STATE ROAD TRANSPORT CORPN.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 20-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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P.B.SURESH KUMAR, J.

M.A.C.A. No. 2536 of 2015

Dated 20th October, 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 cashew factory worker. The accident took place on 14.4.2012. The claimant was aged 50 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.30,542/- 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. The Tribunal found that the claimant sustained various injuries in the accident including vertebral compression fracture. She was in the hospital for five days. The Tribunal also found that the claimant was discharged with Taylor's brace. Ext.A7 is the discharge certificate. The Tribunal found that the claimant was advised absolute bed rest.

5. The Tribunal granted compensation to the claimant for loss of earnings only for a period of one month reckoning her monthly income at Rs.5,000/-. Having regard to the injuries sustained by the claimant as also her occupation as a cashew factory worker, I am of the view that the claimant should have been granted compensation for loss of earnings at least for a period of three months. The claimant is, therefore, granted a further sum of Rs.10,000/- towards loss of earnings. Since the claimant had not produced any disability certificate, the Tribunal has not granted any compensation for loss of earning power or for continuing permanent disability. Even in the absence of any disability certificate, the claimant is entitled

to compensation for loss of amenities and enjoyments in life. No compensation is seen granted towards loss of amenities and enjoyments life. Having regard to the facts and circumstances of the case, I am of the view that the claimant is entitled to a sum of Rs.10,000/- towards loss of amenities and enjoyments in life as well. Thus, the claimant is entitled to a further sum of Rs.20,000/- towards compensation.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.20,000/- 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.

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(true copy)