

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. 1325 of 2014 ()

OP(MV) NO.1686/2011 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, ERNAKULAM.
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APPELLANT/PETITIONER:

**P.J. FRANCIS SAJAN @ P.J. SAJAN,
S/O. P.J. JOSEPH, AGED 27 YEARS,
PANDA PARAMBIL HOUSE, KUTHUKUZH, Y,
S.S.K.S. NAGAR, VADUTHALA, KOCHI-682 023,
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.P.M.JOSHI,
SRI.K.T.SAJU,
SMT.SIJI K.PAUL.**

RESPONDENTS/RESPONDENTS:

- 1. M/S.POPULAR VEHICLES AND SERVICES LTD.,
N.H. BYEPASS, VYSALI JUNCTION, THAMMANAM. P.O.,
KOCHI-682 032, ERNAKULAM DISTRICT.**
- 2. A.A. SANTHOSH, S/O. A.R. ASOKAN,
AGED ABOUT 35 YEARS, AATHUU PARAMBIL HOUSE,
NEAR NAIR'S HOSPITAL, KANNADIKADUBHAGAM,
MARADU. P.O., PIN-682 304.**
- 3. NATIONAL INSURANCE COMPANY LIMITED,
CHITTOR ROAD, SOUTH JUNCTION, ERNAKULAM.**

R3 BY ADV. SRI.M.A.GEORGE.

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

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.1325 of 2014.

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 Carpenter. He was aged 27 years at the time of accident. The accident took place on 22.6.2011. A sum of Rs.60,000/- 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.21,672/- 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 fracture of the third metatarsal of the right foot in the accident. Ext.A6 is the wound certificate issued to the claimant from Lisie Hospital, Kochi and Ext.A7 is the discharge summary issued to him from the said hospital. The claimant had undergone inpatient treatment for two days. Only a sum of Rs.4,000/- is seen awarded towards loss of earnings. Since the accident took place in the year 2011, according to me, in the nature of the injuries sustained by the claimant, he is entitled to compensation for loss of earnings for a period of one and a half months, reckoning his monthly income at Rs.6,000/-. The claimant is therefore, entitled to a further sum of Rs.5,000/- on that head. Towards compensation for pain and sufferings, only a sum of Rs.10,000/- is seen granted 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.5,000/- towards compensation for pain and sufferings. Towards compensation for loss of amenities and enjoyments in life, only a sum of Rs.5,000/- is seen

awarded by the Tribunal. 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.2,500/- towards compensation on that head. Thus, the claimant is entitled to a further sum of Rs.12,500/- towards compensation.

5. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 8% 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.12,500/- 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.

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

Kvs/-

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PA TO JUDGE.