

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

MACA.No. 2413 of 2013 (R)

OPMV 377/2009 of MOTOR ACCIDENTS CLAIMS TRIBUNAL, IRINJALAKUDA

APPELLANT/PETITIONER :

**KUNJU KUTTAPPAN,
S/O. MANIKYAN, MUTHIRUTHIPARAMBIL HOUSE,
PAINGODE DESOM, THEKKUMKARA VILLAGE,
THRISSUR DISTRICT.**

**BY ADVS.SRI.V.BINOY RAM
SMT.SAJITHA P.SOMAN**

RESPONDENTS/RESPONDENTS :

- 1. JAYARAJ FRANCIS
S/O. FRANCIS, KOTTEKATTUKARAN HOUSE,
NADAVARAMBU P.O. & DESOM, VELOOKKARA VILLAGE,
THRISSUR DISTRICT-680 661.**
- 2. TOMY
S/O. JOSE, KANNAMPILLY HOUSE, KUMBIDI,
POOVATHUSSERY P.O., ANNAMANADA,
THRISSUR DISTRICT-680 741.**
- 3. THE BRANCH MANAGER,
THE ORIENTAL INSURANCE CO. LTD., PALAKKATT BUILDING,
MARKET JUNCTION, TRIPUNITHURA, KOCHI-682 301.**

**R3 BY ADV. SMT.REKHA NAIR
BY SMT.K.S.SANTHI**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 02-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

P.B.SURESH KUMAR, J.

M.A.C.A.No.2413 of 2013

Dated this the 2nd 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 10.1.2009. The claimant was aged 68 years at the time of accident. A sum of Rs.75,000/- 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.46,100/- 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 produced by the claimant before the Tribunal. Ext.A5 is the discharge card issued to the claimant from the hospital where he was admitted and treated as inpatient in connection with the injuries sustained by him in the accident. The Tribunal found that the claimant sustained fracture of his right ulna. The Tribunal also found that the claimant had undergone inpatient treatment for 12 days.

5. Coming to the quantum of compensation, only a sum of Rs.500/- is seen granted towards extra nourishment. The claimant being a person aged 68 years, having regard to the inpatient treatment undergone by him, I am of the view that at least a sum of Rs.3,000/- should have been granted to the claimant towards extra nourishment. Accordingly, a further sum of Rs.2,500/- is granted to the claimant towards extra nourishment. Towards bystanders' expenses, only a sum of Rs.1,800/- is seen granted by the Tribunal. Since the accident took place in the year 2009, according to me, a sum of Rs.250/- per day should have been granted to the claimant. The claimant

is therefore entitled to a further sum of Rs.1,200/- on that head. Towards pain and sufferings, only a sum of Rs.14,000/- is seen granted. The claimant being a person aged 68 years and having regard to the inpatient treatment undergone by him, he should have been granted at least a sum of Rs.25,000/- on that head. The claimant is therefore, entitled to a further sum of Rs.11,000/- on that head. Towards loss of amenities and enjoyments in life, only a sum of Rs.5,000/- is seen granted by the Tribunal. On an evaluation of materials on record, I am of the view that he should have been granted a sum of Rs.10,000/- on that head. Thus the claimant is entitled to a further sum of Rs.5,000/- towards compensation for loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.19,700/- 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.19,700/- 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