

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.B.SURESH KUMAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

MACA.No.2123 of 2011

**(AWARD IN OP(MV)NO.1031/2009 OF THE MOTOR ACCIDENTS CLAIMS
TRIBUNAL,KOZHIKODE DATED 12-04-2010).**

APPELLANT/PETITIONER IN OP(MV):

**MUHAMMED,S/O.KUNJAMU,AGED 27 YEARS,
THANIKATTU HOUSE,PANNIYOORKULAM,
PANTHEERANKAVU,KOZHIKODE - 19.**

**BY ADVS.SMT.LATHA PRABHAKARAN
SRI.K.M.JAMALUDHEEN**

RESPONDENTS/RESPONDENTS IN OP(MV):

- 1. ALLIYAMUTTY.C,S/O.C.ABDULLA KUTTY,
CHERATTAYIL HOUSE,KOTT,TIRUR P.O.
MALAPPURAM - 676 101.**
- 2. THE UNITED INDIA INSURANCE COMPANY LIMITED,
SUBKA BUILDING,THAZHEPALAM,
TIRUR,MALAPPURAM - 676101.**

**R1 BY ADV.SRI.BIJU ABRAHAM
SRI.P.PMOHAMED NOUFAL
SRI.JOHN JOSEPH VETTIKAD
R2 BY ADV.SMT.P.K.SANTHAMMA**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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P.B.SURESH KUMAR, J.

M.A.C.A.No.2123 OF 2011

Dated this the 9th day of March, 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 28.12.2008. The claimant was aged 25 years at the time of accident. A sum of Rs.70,000/- 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.26,600/- 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 copy of the wound certificate and Ext.A3 is the reference card. The Tribunal found that the claimant sustained injuries including fracture of left temporal bone and fracture occipital bone. The Tribunal also found that the claimant was admitted and treated as inpatient in the Medical College Hospital, Kozhikode for 23 days.

5. Though the claimant had produced medical bills for a total amount of Rs.15,491/-, due to inadvertence, the Tribunal had granted only a sum of Rs.10,000/- towards compensation on that head. The claimant is, therefore, entitled to a further sum of Rs.5,491/- towards compensation on that head. Though the claimant was admitted and treated as inpatient for 23 days, the Tribunal granted only Rs.3,000/- towards loss of earnings. Since the accident took place in the year 2008, in the nature of the injuries sustained by the claimant, according to me, he is entitled to compensation for loss of earnings for a period of two months reckoning his monthly income at Rs.4,500/-. The claimant is therefore entitled to a further sum of Rs.6,000/- towards compensation on that head. A sum of Rs.10,000/- alone was granted by the Tribunal to the claimant towards compensation for pain and sufferings.

According to me, in the nature of the injuries sustained by the claimant and the treatment undergone by him, he is entitled to a further sum of Rs.5,000/- towards compensation for pain and sufferings. Towards loss of amenities and enjoyments in life, the Tribunal has granted only a sum of Rs.1,000/- 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.9,000/- towards compensation for loss of amenities and enjoyments in life. The claimant was admitted in a hospital for 23 days. The Tribunal granted only a sum of Rs.2,300/- towards bystander's expenses. According to me, the claimant should have been granted bystander's expenses at least at the rate of Rs.200/- per day. The claimant is therefore, entitled to a further sum of Rs.2,300/- on that head. Thus, the claimant is entitled to a further sum of Rs.27,791/- 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.27,791/- 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, except for the period of delay in filing the appeal, viz., 487 days as ordered in C.M.Application No.3135 of 2011.

P.B.SURESHKUMAR, JUDGE

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