

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

MACA.No. 2139 of 2011 ()

OPMV.211/2010 OF PRL. MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE.

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APPELLANT/PETITIONER:

**K.P. SHEREEF, S/O.MUHAMMED,
AGED 25 YEARS, KALATHINGAL PURAYIL HOUSE,
P.O. MANIPURAM, KODUVALLY VIA, KOZHIKODE.**

BY ADV. SMT.K.V.RESHMI.

RESPONDENTS/RESPONDENTS:

- 1. MUHAMMED,
S/O.MARAKKAR, 7/183, POTTAMMAL,
KURUVATTOOR, P.O. PARAMBIL, KOZHIKODE- 673 012.**
- 2. NASHID. P., S/O.MUHAMMED.P,
AGED 23 YEARS, POTTAMMAL HOUSE,
PARAMBIL P.O., KOZHIKODE- 673 012.**
- 3. THE UNITED INDIA INSURANCE CO. LTD.,
WHITE LINE BUILDING, KALLAI ROAD,
KOZHIKODE- 673 001.**

**R3 BY ADV. SRI.V.JAYAPRADEEP.
ADV. SRI.JOHN JOSEPH VETTIKAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 22-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.2139 of 2011

Dated this the 22nd 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 accident took place on 2.9.2009. The claimant was aged 24 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.39,912/- 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 and Ext.A4 is the reference card produced by the claimant to establish the injuries sustained by him in the accident. It is evident from the said documents that the claimant had suffered fracture of olecranon (right) in the accident in addition to a lacerated injury sustained by him on his right occipital region. Ext.A4 also indicates that the claimant was admitted in the Medical College Hospital, Calicut from 2.9.2009 to 5.10.2009. In other words, he was in the hospital for 34 days. Ext.A4 also indicate that he had undergone a surgical procedure in the course of his treatment.

5. The claimant is engaged in the trade of mobile phones. The Tribunal has granted compensation towards

loss of earnings to the claimant only for a period of two months, reckoning his monthly income at Rs.3,000/-. Since the accident took place in the year 2009, the monthly income of the claimant should have been reckoned by the Tribunal at Rs.5,000/- and since the claimant had undergone treatment in the hospital for 34 days, he should have been granted compensation towards loss of earnings for a period of three months. The claimant is thus entitled to a further sum of Rs.9,000/- towards compensation for loss of earnings. Towards extra nourishment, only a sum of Rs.500/- is seen granted to the claimant. Considering the nature of 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.2,500/- towards compensation for extra nourishment. It is seen that towards bystander's expenses, the Tribunal has granted compensation only at the rate of Rs.100/- per day. Since

the accident took place in the year 2009, according to me, he is entitled to compensation for bystander's expenses at the rate of Rs.250/- per day. Therefore, the claimant is entitled to a further sum of Rs.5,100/- on that head. Towards pain and sufferings, only a sum of Rs.12,000/- is seen granted. Having regard to the injury sustained by the claimant and the prolonged hospitalization, I am of the view that the claimant is entitled to further sum of Rs.8,000/- on that head. Towards loss of amenities and enjoyments in life, only a sum of Rs.5,000/- is seen granted. The said compensation is also liable to be revised to Rs.10,000/-. Therefore, the claimant is entitled to a further sum of Rs.5,000/- on that head. 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.

P.B.SURESH KUMAR, JUDGE.

smm