

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

MACA.No. 1458 of 2014

**AGAINST THE ORDER IN OP(MV) 902/2009 of MOTOR ACCIDENTS CLAIMS TRIBUNAL,
KOZHIKODE DATED 09-04-2010**

APPELLANT(S)/PETITIONER:

**PAVITHRAN,
S/O.SANKU, AMAYA, 37/375
P.O.KARUVISSERY, KOZHIKODE DISTRICT.**

BY ADV. SMT.K.V.RESHMI

RESPONDENT(S)/RESPONDENTS:

- 1. UMAIBHANU C.P
S/O.MAMMU, Bismi, PALAKKATTIL
10TH MILE, P.O.KUNNAMANGALAM, KOZHIKODE
PIN - 673 574.**
- 2. JAYADEVAN P
S/O.JAYABALAN, POYILIL HOUSE, P.O.KIZHAKKUMMURI
KOZHIKODE DISTRICT - 676 551.**
- 3. THE NATIONAL INSURANCE CO.LTD
DIVISIONAL OFFICE, NOOR COMPLEX, MAVOOR ROAD
KOZHIKODE - 673 001.**

R3 BY ADV. SRI.M.A.GEORGE

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 03-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

P.B.SURESH KUMAR, J.

M.A.C.A. No.1458 of 2014

Dated 3rd February, 2015.

J U D G M E N T

The claimant in a proceedings for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the quantum of compensation granted to him.

2. The claimant is an agriculturist. He was aged 73 years at the time of accident. The accident took place on 11.10.2008. He sustained multiple injuries all over his body, including inter trochanteric fracture of left femur. He claimed Rs.1,00,000/- by way of compensation in the proceedings.

3. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to Rs.39,200/- and accordingly, an award for the said amount was passed. As the vehicle involved in the accident was covered by a valid insurance policy at the time of accident, the third respondent, the insurer was directed to satisfy the award.

4. Heard the learned counsel for the appellant/claimant as also the learned counsel for the third

respondent/insurer.

5. It is not disputed that the claimant sustained multiple injuries all over his body, including inter trochanteric fracture of left femur. He was admitted and treated in a hospital as inpatient for 14 days in connection with the injuries sustained by him in the accident. Ext.A4 discharge summary issued from the District Cooperative Hospital, Kozhikode gives the details of the treatment undergone by the claimant.

6. Towards treatment expenses, the claimant had though produced medical bills worth Rs.34,317/-, the Tribunal has not accepted bills worth Rs.2,396/- on the ground that the name of the petitioner does not appear on those bills. Normally, in such circumstances, one would expect the Tribunal to grant compensation for medical expenses for the amount covered by the remaining bills, namely Rs.31,921/-. However, the Tribunal had granted only a sum of Rs.25,000/- to the claimant towards compensation for medical expenses, on the ground that the claim on that head was only Rs.25,000/-. According to me, in so far as the total amount claimed in the proceeding being Rs.1,00,000/- and in so far as

the entire amount claimed by him was not granted as compensation, the Tribunal should have awarded Rs.31,921/- towards compensation for medical expenses. The claimant is, therefore, entitled to a further sum of Rs.6,921/- towards treatment expenses. Towards pain and sufferings, the claim was for a sum of Rs.25,000/-. The Tribunal had granted only a sum of Rs.10,000/- under that head. It is not disputed that the claimant was a person aged 72 years at the time of accident. It is also not disputed that in the accident, he suffered multiple injuries all over his body, including inter trochanteric fracture of left femur. In the circumstances, the Tribunal should have granted at least a sum of Rs.20,000/- towards pain and sufferings. The claimant is therefore, entitled to a further sum of Rs.10,000/- towards compensation for pain and sufferings. Coming to the compensation for the loss of amenities and enjoyments in life, the claim was for a sum of Rs.25,000/-. The Tribunal had granted only a sum of Rs.2,000/- under that head. For the reasons stated by me while enhancing the compensation granted for the pain and sufferings to the claimant, I am of the view that the claimant is

entitled to a minimum of Rs.12,000/- towards compensation for loss of amenities and enjoyments in life. In other words, the claimant is entitled to a further sum of Rs.10,000/- towards compensation for loss of amenities and enjoyments in life.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal to the claimant is modified, granting a further sum of Rs.26,921/- by way of compensation. Needless to say, the claimant will be entitled to interest at the same rate at which interest was granted by the Tribunal, except for the period of delay in filing the appeal, viz., 768 days, as ordered in C.M.Application No.1674 of 2014.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)