

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.B.SURESH KUMAR

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

MACA.No.1459 of 2014

**(AGAINST THE AWARD IN OP(MV)NO.339/2007 OF THE MOTOR ACCIDENT
CLAIMS TRIBUNAL,KOZHIKODE DATED 04-05-2009).**

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APPELLANTS/PETITIONERS:

1. BEEVI,W/O.LATE ABOO,AGED 70 YEARS,
MAMMARIYIL HOUSE,ANNASSERY POST,
THALAKALATHOOR,KOZHIKODE.
2. RAHIMATH,D/O.LATE ABOO,AGED 53 YEARS,
MAMMARIYIL HOUSE,ANNASSERY POST,
THALAKALATHOOR,KOZHIKODE.
3. MUHAMMED,S/O.LATE ABOO,AGED 57 YEARS,
MAMMARIYIL HOUSE,ANNASSERY POST,
THALAKALATHOOR,KOZHIKODE.
4. SADIYA,D/O.LATE ABOO,AGED 45 YEARS,
MAMMARIYIL HOUSE,ANNASSERY POST,
THALAKALATHOOR,KOZHIKODE.

BY ADV.SMT.K.V.RESHMI

RESPONDENTS/RESPONDENTS:

1. BAIJU MATHEW,S/O.MATHEW,MANDOLIL HOUSE,
KAVILUMPARA POST,THOTTIPALAM,
KOZHIKODE - 673 513.
2. K.T.NIJEESH,S/O.NANU,KANDOTHARA HOUSE,
KAVILUMPARA POST,KOZHIKODE - 673 513.
3. THE ORIENTAL INSURANCE CO.LTD
DIVISIONAL OFFICE,SEEMA BUILDING,
G.H.ROAD,KOZHIKODE - 673 032.

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

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

P.B.SURESH KUMAR, J.

M.A.C.A.No.1459 OF 2014

Dated this the 2nd day of March, 2015

JUDGMENT

The claimants in a petition for compensation before the Motor Accidents Claims Tribunal have come up in this appeal challenging the quantum of compensation granted by the Tribunal.

2. The predecessor of the claimants Aboo, died in a motor accident took place on 26.5.2006. Aboo was a salesman. He was aged 76 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 claimants are entitled to only a sum of Rs.65,166/- 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 claimants are aggrieved by the said award.

3. Heard the learned counsel for the claimants and the learned

counsel for the insurer.

4. The Tribunal granted only a sum of Rs.2,500/- towards funeral expenses, Rs.5,000/- towards loss of consortium and Rs.5,000/- towards pain and sufferings. It is settled that even in cases of instantaneous death, the claimants are entitled to a minimum of Rs.15,000/- by way of compensation for pain and sufferings. The claimants are, therefore, entitled to a further sum of Rs.10,000/- towards pain and sufferings. Likewise, as stated above, only a sum of Rs.5,000/- is granted towards compensation for loss of consortium. In the facts and circumstances, the claimants are entitled to a further sum of Rs.10,000/- towards loss of consortium. Towards funeral expenses, as noticed above, the Tribunal has granted only a sum of Rs.2,500/-. The accident took place in the year 2006. As such, I am of the view that the claimants are entitled to a further sum of Rs.20,000/- towards funeral expenses. Thus, the claimants are entitled to a further sum of Rs.40,000/- towards compensation.

5. 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.40,000/- to the claimants by way of compensation. Needless to say, the claimants 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., 1263 days as ordered in C.M.Application No.1675 of 2014.

jes

Sd/-
P.B.SURESH KUMAR, JUDGE