

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

MACA.No. 992 of 2010 ()

OPMV. NO.908/2003 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALAKKAD.

APPELLANT/PETITIONER:

**NAVEENRAJ (MINOR), S/O.S.P.ALAGAPAN,
RESIDING AT 6, VELLIAMMAL LAYOUT, UOTHUKKAD ROAD,
POLLACHI, TAMIL NADU, (MINOR APPELLANT,
REPRESENTED HEREIN BY HIS GUARDIAN
MOTHER RAMATHILAGAM).**

**BYADVS. SRI.T.C.SURESH MENON,
SRI.JIBU P THOMAS,
SRI.P.S.APPU,
SRI.A.R.NIMOD,
SRI.C.A.ANOOP.**

RESPONDENTS/RESPONDENTS:

- 1. S. SUBBIAH, S/O.SUBRAMANIYAN, PROPRIETOR,
M/S.SRI AYYAPPA COTTAGE INDUSTRIES,
VELLAIAMMAL, LAYOUT, UTHUKAD ROAD,
POLLACHI, TAMILNADU.**
- 2. S.P. ALAGAPPA, S/O.SUBRAMANIYAN,
RESIDING AT 6, VELLAIMMAL LAYOUT,
POLLACHI, TAMILNADU.**
- 3. THE NEW INDIA ASSURANCE COMPANY LIMITED,
5, RAJA MILL ROAD, POLLACHI, TAMILNADU.**

R3 BY ADV. SRI.VPK.PANICKER/.

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 17-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.992 of 2010

Dated this the 17th day of August, 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 was a minor, aged 10 years at the time of accident. The accident took place on 14.7.2002. A sum of Rs.53,000/- 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.19,825/- and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance policy, the insurer of the vehicle 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. As noticed above, the claimant was a minor aged 10 years at the time of the accident. The Tribunal found that the claimant sustained fracture of superior orbital ridge of frontal bone in the accident. The Tribunal also found that the claimant was treated at Fort Hospital, Palakkad and also at the Medical College Hospital, Thrissur for the injuries sustained by him in the accident. The Tribunal further found that the claimant has undergone inpatient treatment in the hospitals for about 8 days. Despite the head injury sustained by the claimant as aforesaid, only a sum of Rs.1,500/- has been granted to the claimant by way of compensation towards extra nourishment. According to me, the compensation granted towards that head is highly inadequate. The claimant should have been granted a minimum of Rs.3,500/- on that head. Thus the claimant is entitled to a further sum of Rs.2,000/- towards extra

nourishment. Towards bystander's expenses, only a sum of Rs.1200/- is seen granted. The said compensation is also liable to be revised to Rs.2000/-, especially when the claimant was a minor. The claimant is thus entitled to a further sum of Rs.800/- towards bystander's expenses. Towards pain and sufferings, despite the aforesaid injuries and the prolonged hospitalization, only a sum of Rs.10,000/- is seen granted. The claimant is therefore, entitled to a further sum of Rs.10,000/- on that head. No compensation is seen granted to the claimant for continuing permanent disability. In the circumstances, the claimant is entitled to be adequately compensated for loss of amenities and enjoyments in life. Only a sum of Rs.3,000/- is seen granted by the Tribunal towards loss of amenities and enjoyments in life. The said compensation is also liable to be revised to Rs.10,000/-. The claimant is thus entitled to a further sum of Rs.7,000/- on that head. Thus, the claimant is entitled to a sum of Rs.19,800/- towards additional

compensation.

5. 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.19,800/- 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., 434 days as ordered in C.M.Application No.1267 of 2010.

P.B.SURESH KUMAR, JUDGE.

smm