

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

MACA.No. 1725 of 2014 ()

**AGAINST THE AWARD IN OP(MV) 868/2011 OF PRINCIPAL MOTOR ACCIDENTS CLAIMS
TRIBUNAL, KOZHIKODE DATED 30-06-2012**

APPELLANT/PETITIONER:

**BIJU, AGED 34 YEARS
S/O.RAMANKUTTY NAIR, ERANHIPOOKATTU HOUSE, MAVOOR
KOZHIKODE DISTRICT.**

BY ADV. SMT.K.V.RESHMI

RESPONDENTS/RESPONDENTS:

- 1. JOBY THOMAS
S/O.P.T.THOMAS, PLATHOTTATHIL HOUSE, KALLANODE P.O.
KAKKAYAM (VIA), KOZHIKODE-673615.**
- 2. SAJI JOSEPH
S/O.JOSEPH, NEERAMPUZHA VEEDU, KOODARANJI P.O.
POOVARAMTHODU, KOZHIKODE DISTRICT-673604.**
- 3. THE NEW INDIA ASSURANCE CO.LTD.,
DIVISIONAL OFFICE, SILVER PLAZA BUILDING, I.G.ROAD
KOZHIKODE-673001.**

**R3 BY ADVS. SRI.RENI ANTO KANDAMKULATHY, SC.
SRI.A.A.ZIYAD RAHMAN**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

MACA.No. 1725 of 2014 ()

APPENDIX

APPELLANT'S ANNEXURES:

**ANNEXURE A. COPY OF THE COMMUNICATIONS NARRATING THE PROCEEDINGS
INITIATED AGAINST SRI. SANTHOSH KUMAR K.P.**

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

SHG/

P.A. TO JUDGE

P.B.SURESH KUMAR, J.
=====

M.A.C.A.No.1725 of 2014
=====

Dated this the 16th day of January, 2015

JUDGMENT

The claimant in an application 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 a petty contractor. He was aged 33 years at the time of accident. The accident took place on 24.2.2011. According to him, he sustained serious injuries in the accident including fracture of 2nd, 3rd, 4th, 6th and 7th ribs. It is stated by him in the application for compensation that he was treated at Mukkam EMS Hospital and Medical College Hospital, Kozhikode in connection with the injuries sustained by him. He claimed a sum of Rs.50,000/- by way of compensation.

3. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled only a sum of Rs.12,979/- by way of compensation and an award was accordingly passed for the said amount.

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

5. The impugned award indicates that the Tribunal had not granted any compensation to the claimant for the loss of amenities and enjoyment of life. It is also seen that only a sum of Rs.8,000/- was granted towards compensation for the pain and sufferings as against the claim of Rs.30,000/-. Likewise, it is seen that only a sum of Rs.3,000/- was granted as compensation by the Tribunal to the claimant towards loss of earnings.

6. As regards the loss of earnings, the case set up by the claimant in the application for compensation is that he is earning Rs.10,000/- per month and it is on that basis, a sum of Rs.30,000/- was claimed towards the loss of earnings for a period of three months. The Tribunal had not accepted the said case set up by the claimant. Instead, the Tribunal had granted only a sum of Rs.3,000/- by way of compensation to the claimant towards loss of earnings for a period of one month, reckoning his monthly income only at Rs.3,000/-. As noticed above, the accident took place on 24.2.2011. The monthly income of a petty contractor in the year 2011, according me, should have been reckoned by the Tribunal at least at Rs.6,000/-. The claimant is, therefore, entitled to a further sum of Rs.3,000/- by way of compensation for loss of earnings. As regards the compensation granted towards pain and sufferings, it is beyond dispute that the claimant suffered multiple fracture of 2nd,

3rd, 4th, 6th and 7th ribs. In addition, he also suffered various other injuries including a lacerated wound on the frontal region. In the nature of the injuries sustained by him, I am of the view that the claimant is entitled to a further sum of Rs.8,000/- towards compensation for pain and sufferings. As noticed earlier, no compensation has been granted to the claimant for loss of amenities and enjoyment in life. On an appraisal of the materials on record, I am of the view that the claimant is entitled to a sum of Rs.10,000/- towards compensation for loss of amenities and enjoyment in life.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal to the appellant is enhanced from Rs.12,979/- to Rs.33,979/-. Needless to say, the appellant will be entitled to interest also for the enhanced compensation at the same rate at which the interest was granted for the compensation already granted by the Tribunal.

Sd/-

**P.B.SURESH KUMAR
JUDGE**

/true copy/

P.A. to Judge

vpv