

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

MACA.No. 1564 of 2009 ()

AGAINST THE AWARD IN OPMV 1800/2006 of M.A.C.T.,
KOZHIKODE, DATED 22-04-2009

APPELLANT/CLAIMANT:-

N.P.NOUSHAD @ NOUSHADALI, AGED 18 YEARS,
THIRUTHIKUNNATH THAZHAM, SEFNAS MANZIL, MAKKADA POST
KZKKODI (VIA), KOZHIKODE DISTRICT.

BY ADV. SMT.K.V.RESHMI

RESPONDENTS/RESPONDENTS:-

1. RAHIS, S/O.POCKER, AGED NOT KNOWN,
H.NO.4/1208-B- VELLAYIL ROAD, BEACH POST, KOZHIKODE.

2. NATIONAL INSURANCE COMPANY LTD.,
DIVISIONAL OFFICE, NOOR COMPLEX, MAVOOR ROAD
KOZHIKODE.

R2 BY ADV. SRI.PMM.NAJEEB KHAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 11-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

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M.A.C.A.No.1564 of 2009

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Dated this the 11th day of August, 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 by the Tribunal.

2. The claimant was a minor boy aged 15 years at the time of accident. The accident took place on 22.02.2006. A sum of Rs.50,000/- 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.16,000/- 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. Ext.A2 is the wound certificate produced by the claimant before the Tribunal. The Tribunal found from Ext.A2 that the claimant suffered loss of six teeth in the accident. It is seen that the Tribunal has granted only a sum of Rs.1,000/- to the claimant towards medical treatment. In so far as the claimant suffered loss of six teeth, even in the absence of any evidence, the Tribunal should have awarded some more amounts to the claimant towards medical treatment. The compensation granted to the claimant towards medical expenses, in the circumstance, is liable to be raised to Rs.5,000/-. Towards pain and sufferings, the claimant is seen granted only a sum of Rs.3,000/-. According to me, the said compensation is also inadequate. Having regard to the injuries sustained by the claimant, I am of the view that the claimant is entitled to a further sum of Rs.2,000/- towards compensation for pain and sufferings. Towards loss of amenities and enjoyment in life, only a sum

of Rs.1,500/- is seen granted by the Tribunal. As noticed above, the claimant was a minor at the time of accident. The Tribunal, it seems, has not correctly comprehended the loss of amenities the claimant would have suffered on account of the injuries sustained in the accident. According to me, the claimant is entitled to a further sum of Rs.8,500/- towards compensation on that head. Thus, the claimant is entitled to an additional compensation of Rs.14,500/-.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.14,500/- 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.

Sd/-
P.B.SURESH KUMAR,
(JUDGE)

Kvs/-

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PA TO JUDGE.