

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/ 30TH MAGHA, 1936

MACA.No. 1311 of 2010 ( )  
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AGAINST THE AWARD IN OPMV 765/2008 of M.A.C.T.,  
KOZHIKODE, DATED 14-09-2009.

APPELLANT/PETITIONER:-  
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FAMITHA (MINOR), AGED 8 YEARS,  
DATE OF BIRTH 11.08.2001, REPRESENTED BY HER  
MOTHER & LEGAL GUARDIAN, T.K.SAJIDA, D/O.ABDUL JABBAR  
AGED 32 YEARS, THERUVOTH, KUNNUMMAL HOUSE  
P.O.IRUVALLOOR, CHELANNUR AMSOM, DESOM  
KOZHI

BY ADVS.SMT.K.V.RESHMI  
SRI.M.N.SANDEEP

RESPONDENTS/RESPONDENTS:-  
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1. KRISHNANKUTTY, S/O.GOVINDAN, AGE NOT  
KNOWN, RESIDING AT KOTTUMPURATH PURAYIL HOUSE  
P.O.MADAVOOR, NARIKUNI, KOZHIKODE.

2. ANASS K.P., S/O.USSAIN,  
AGED 32 YEARS, RESIDING AT KUNNATH HOUSE  
P.O.KIZHAKKUMURI, KOZHIKODE.

3. THE NEW INDIA ASSURANCE CO. LTD.,  
SHAFEER COMPLEX, 6/975 D, OPP.YMCA  
KANNUR ROAD, KOZHIKODE.

R3 BY ADV. SRI.M.PREMCHAND

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD  
ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

**P.B.SURESH KUMAR, J.**

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**M.A.C.A.No.1311 of 2010**  
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**Dated this the 19<sup>th</sup> day of February, 2015.**

**J U D G M E N T**

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 7 years old at the time of accident. The accident took place on 12.5.2007. A sum of Rs.60,000/- 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.24,253/- 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 claimant is aggrieved by the said award.

3. Heard the learned counsel for the claimant and the learned counsel for the insurer.

4. Relying on Ext.A2 wound certificate, the Tribunal found that the claimant had sustained fracture of radius,

ecchymosis of right eye and other injuries. The Tribunal also noticed that the claimant had undergone treatment as inpatient in the Institute of Maternal and child Health attached to the Medical College Hospital, Kozhikode.

5. It is seen that the Tribunal has granted an amount of Rs.1,500/- towards compensation for loss of amenities. On an evaluation of the nature of the injuries sustained by the claimant, the claimant has to be granted a sum of Rs.8,500/- towards loss of amenities and enjoyments in life. Towards extra-nourishment, no compensation is seen granted. According to me, the claimant is entitled to a minimum of Rs.2,000/- towards extra nourishment. Towards bystander's expenses, only a sum of Rs.2,000/- is seen granted by the Tribunal. Since the claimant was hospitalised for about 13 days, I am of the view that the claimant is entitled to a further sum of Rs.1,500/- towards bystander's expenses. Thus, the claimant is entitled to a further sum of Rs.12,000/- towards compensation.

6. In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.12,000/- to the claimant by way of

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compensation. Needless to say, the claimant will be entitled to interest also for the enhanced compensation at the same rate at which the interest was awarded by the Tribunal for the compensation granted.

**Sd/-P.B.SURESH KUMAR, JUDGE.**

**Kvs/-**

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PA TO JUDGE.