

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

MACA.No. 1996 of 2014

**AWARD DATED 11-11-2009 IN OPMV 412/2007 OF PRINCIPAL MOTOR ACCIDENT
CLAIMS TRIBUNAL, KOZHIKODE**
.....

APPELLANT(S)/PETITIONERS:

**KUNHAYISHA, AGED 62 YEARS,
W/O.KUNHAMMED, AMBALAPARAMBIL VEEDU, VELLIL,
PALLIKKARA POST, THIKKODI AMSOM, PALLIKKARA DESOM,
KOZHIKODE.**

**BY ADVS.SRI.AVM.SALAHUDIN
SMT.A.D.DIVYA**

RESPONDENT(S)/3RD RESPONDENTS:

**THE NEW INDIA ASSURANCE CO LTD.,
DIVISIONAL OFFICE, SILVER PLAZA BUILDINGS, I.G.ROAD,
KOZHIKODE - 673 001.**

**BY ADVS. SRI.THOMAS MATHEW NELLIMOOTTIL
SRI.A.A.ZIYAD RAHMAN**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 18-08-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1: MEMO DATED 27.5.2014 ISSUED TO THE SANTHOSH KUMAR K.P.
(ADVOCATE CLERK) BY ADV. RESHMI K.V., PARTNER, BELVERDIA
LEGAL L.L.P.**

**ANNEXURE A2: EXPLANATION DTD.30.5.2014 GIVEN BY SANTHOSH KUMAR K.P. TO
ADV. RASHMI K.V.**

**ANNEXURE A3: THE NOTICE ISSUED BY ADV. RASHMI TO ADV. ANIL THOMAS,
SR.PARTNER BELVERDIA LEGAL L.L.P., COCHIN WITH A REQUEST TO
CONDUCT ENQUIRY AGAINST THE ADVOCATE CLERK.**

**ANNEXURE A4: NOTICE DTD.3.6.2014 ISSUED TO THE SANTHOSH KUMAR K.P.,
ADVOCATE CLERK SUSPENDING HIM BY THE ADV. ANIL THOMAS,
SR.PARTNER, BELVERDIA LEGAL L.L.P., COCHIN.**

**ANNEXURE A5: LETTER DTD.4.6.2014 TO THE REGISTRAR GENERAL, HIGH COURT
OF KERALA BY THE ADV. ANIL THOMAS, SR. PARTNER BELVERDIA
LEGAL L.L.P, COCHIN, INFORMING THE SUSPENSION OF THE CLERK
AND REQUESTING TO TAKE APPROPRIATE ACTION AGAINST THE
ADVOCATE CLERK WHO COMMITTEED DERELICTION OF DUTY.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.B.SURESH KUMAR, J.

M.A.C.A.No.1996 of 2014

Dated this the 18th 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 is a coir worker. The accident took place on 30.4.2006. 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 claimant is entitled to only a sum of Rs.21,464/- 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. The claimant sustained various injuries including multiple facial bone fractures. CT scan taken on her confirmed hemorrhage contusions also. The Tribunal found that the claimant had undergone inpatient treatment in one hospital from 30.4.2006 to 9.5.2006 and in another hospital from 23.5.2006 to 31.5.2006.

5. Coming to the quantum of compensation, only a sum of Rs.1000/- is seen awarded by the Tribunal to the claimant towards loss of earnings. As noticed above, the claimant is a **coir** worker and the accident took place in the year 2006. The claimant in the circumstances should have been granted compensation for loss of earnings at least for a period of three months, reckoning her monthly income at Rs.4500/-. Since the claimant is granted only a sum of

Rs.1000/-, she is entitled to a further sum of Rs.12,500/- towards loss of earnings. Though the claimant had undergone inpatient treatment in two hospitals for 19 days, only a sum of Rs.750/- has been awarded by the Tribunal towards bystander's expenses. Since the accident took place in the year 2006, the claimant is entitled to bystander's expenses at the rate of Rs.250/- per day. The claimant is therefore, entitled to a further sum of Rs.4,000/- towards compensation on that head. Towards pain and sufferings, despite the aforesaid injuries, only a sum of Rs.12,000/- is granted. On an evaluation of the materials on record, I am of the view that the claimant is entitled to a further sum of Rs.8,000/- on that head. Towards loss of amenities and enjoyments in life, only a sum of Rs.1000/- is seen granted. Having regard to the facts and circumstances of the case, I am of the view that the claimant is entitled to a further sum of Rs.4,000/- on that head. Thus, the claimant is entitled to a further sum of Rs.28,500/- towards compensation.

6. 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.28,500/- 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, except for the period of delay in filing the appeal, viz., 1632 days as ordered in C.M.Application No.2283 of 2014.

P.B.SURESH KUMAR, JUDGE.

smm