

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

MACA.No. 1878 of 2009 (B)

**O.P.(MV)NO. 1307/2005 OF THE PRINCIPAL MOTOR ACCIDENTS CLAIMS
TRIBUNAL, KOZHIKODE**

APPELLANT/PEITIONER :-

**M.K.HARIS, S/O. ABDULLA, AGED 42 YEARS,
MALAYAMKANDY HOUSE, P.O. KADAVATHOOR,
THALASSERY, KANNUR DISTRICT.**

**BY ADVS.SRI.V.S.CHANDRASEKARAN
SMT.LEKSHMI SWAMINATHAN**

RESPONDENT(S)/RESPONDENTS :-

- 1. GIREESH P., S/O.KRISHANANKUTTY,
PACHATTU HOUSE, 22/617,
MANNANKANDY PARAMBA,
KUTTIYILTHAZHAM, P.O. POKKUNNU,
KOZHIKODE.**
- 2. NEW INDIA ASSURANCE COMPANY LTD.,
DIVISIONAL OFFICE, SILVER PLAZA BUILDING,
T.G.ROAD, KOZHIKODE.**

R2 BY ADV. SMT.P.K.SANTHAMMA

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

P.B.SURESH KUMAR, J

M.A.C.A.No.1878 of 2009

Dated this the 17th day of March, 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 running a bakery. The accident took place on 12.04.2005. The claimant was aged 38 years at the time of accident. A sum of ₹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 ₹35,000/- and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance policy 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. Ext.A2 is the wound certificate produced by the claimant before the Tribunal. The Tribunal found that the claimant sustained various injuries including fracture of tibial plate of the left knee and fracture of the crown of the central incisor. The claimant also suffered fracture of two more teeth on the lower jaws. Ext.A2 indicates that the claimant was admitted and treated as inpatient in a hospital from 13.04.2005 to 21.04.2005.

5. Only a sum of ₹ 4,500/- is seen granted towards loss of earnings. In the nature of injuries sustained by the claimant, I am of the view that the claimant is entitled to compensation for loss of earnings for a period of two months reckoning his monthly income at ₹5,000/-. The claimant is therefore entitled to a further sum of ₹5,500/- towards loss of earnings. Towards pain and sufferings, despite the aforesaid injuries, only a sum of ₹8,500/- is seen granted by the Tribunal. According to me, the claimant is entitled to a sum of ₹6,500/- more towards compensation on that head. Towards loss of amenities and enjoyments in life, only a sum of

₹3,000/- is seen granted. According to me, the claimant is entitled to a further sum of ₹7,000/- on that head. For the disability sustained by the claimant on account of the avulsion of the incisor and the fracture of the teeth, no compensation is seen granted. According me, the claimant is entitled to a sum of ₹5,000/- towards compensation for the said disability. Though the claimant had undergone treatment as inpatient for nine days in the hospital, no compensation is seen granted towards bystander's expenses. Since the accident took place in the year 2005, according to me, the claimant is entitled to a sum of ₹2,000/- towards compensation for bystander's expenses. Likewise, no compensation is seen granted towards extra nourishment. In the facts and circumstances of this case, I am of the view that the claimant is entitled to a sum of ₹2,000/- towards compensation for extra nourishment as well. Thus, the claimant is entitled to a further sum of ₹28,000/- 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.28,000/- 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

rkj

//TRUE COPY//

P.A. TO JUDGE