

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.B.SURESH KUMAR

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

MACA.No.1546 of 2010

OP(MV) NO.604/2007 of MOTOR ACCIDENTS CLAIMS TRIBUNAL,IRINJALAKUDA.

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APPELLANT/PETITIONER:

**KOCHUTHRESSIA,W/O.OUSEPHUNNY,
KOONNAN HOUSE,POTTA DESOM AND VILLAGE,
POTTA.P.O,MUKUNDAPURAM TALUK,THRISSUR DISTRICT.**

**BY ADVS.SRI.P.V.BABY
SRI.A.N.SANTHOSH**

RESPONDENT'S/RESPONDENTS:

- 1. MANAGING DIRECTOR,
KERALA STATE ROAD TRANSPORT CORPORATION,
FORT,TRIVANDRUM.**
- 2. POULOSE,S/O.KURUVILA,OLLOOKKARAN HOUSE,
PUTHENVELIKKARA.P.O,ERNAKULAM DISTRICT.**

R1 BY ADV.VIMALA BABY

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 15-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

P.B.SURESH KUMAR, J.

M.A.C.A.No.1546 of 2010

Dated this the 15th day of June, 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 manual labourer. She sustained injuries in an accident involving a bus owned by the Kerala State Road Transport Corporation. The second respondent was the driver of the vehicle. The accident took place on 9.11.2006. The claimant was aged 49 years at the time of accident. A sum of Rs.98,000/- 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.53,200/- and accordingly, an award was passed permitting the claimant to recover the said amount from the Kerala State Road Transport Corporation.

3. Heard the learned counsel for the appellant.

4. Ext.A3 is the wound certificate of the claimant. Ext.A4 is the discharge card issued to the claimant from the St.James Hospital, Chalakkudy. The Tribunal found that the claimant sustained wedge compression fracture of L1 vertebra in the accident. The Tribunal also found that the claimant had undergone inpatient treatment for the injuries sustained by her for 13 days.

5. According to the claimant, she was earning a monthly income of Rs.4,000/- at the time of accident. The Tribunal granted only a sum of Rs.4,500/- towards loss of earnings for a period of three months, reckoning the monthly income of the claimant at Rs.1,500/- per month. Since the accident took place in the year 2006, I am of the view that the monthly income of the claimant should have been reckoned by the Tribunal at Rs.4,000/-. The claimant is, therefore, entitled to a further sum of Rs.7,500/- towards loss of earnings. No compensation is seen granted to the claimant towards extra nourishment. On an evaluation of the materials on record, I am of the view that the claimant is entitled to a minimum of Rs.2,500/- towards extra nourishment. Towards bystander's expenses, only a sum of

Rs.1,300/- is seen granted to the claimant. Since the accident took place in the year 2006, I am of the view that the claimant should have been granted compensation for bystander's expenses at the rate of Rs.250/- per day. The claimant is, therefore, entitled to a further amount of Rs.1,950/- towards bystander's expenses. Towards pain and sufferings, a sum of Rs.15,000/- is seen granted by the Tribunal. Having regard to the injuries sustained by the claimant and the treatment undergone by her, I am of the view that she is entitled to a further sum of Rs.5,000/- on that head. No compensation is seen granted to the claimant towards continued disability sustained by her. In the said circumstances, according to me, the claimant should have been adequately compensated towards loss of amenities and enjoyments in life. Only a sum of Rs.6,000/- is seen granted towards loss of amenities and enjoyments in life. According to me, on the facts of this case, the claimant is entitled to a minimum of Rs.15,000/- towards compensation on that head. The claimant is, therefore, granted a further sum of Rs.9,000/- towards loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.25,950/- 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.25,950/- to the claimant by way of compensation. The claimant will be entitled to recover the whole amount of compensation from the first respondent. Needless to say, the claimant will also be entitled to interest for the whole amount of compensation at the rate of 9% per annum.

P.B.SURESH KUMAR, JUDGE.

smm