

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

MACA.No. 2222 of 2014 (C)

THE AWARD IN O.P.(MV) No.317/2011 of M.A.C.T.,KOLLAM

APPELLANT/PETITIONER:

**PRASANNA, AGED 46 YEARS,
D/O.NARAYANAN, MUKALUVILATHEKKATHIL,
IVERKALA WEST NORTH MURI, KUNNATHOOR VILLAGE.**

BY ADV. SRI. PRATHEESH.P

RESPONDENT/ 3rd RESPONDENT:

**THE DIVISIONAL MANAGER,
ORIENTAL INSURANCE COMPANY LTD, MALIACKAL GALAZY,
OPP. MSM COLLEGE, KAYAMKULAM, KOLLAM – 691 001.**

**R1 BY ADVS. DR. ELIZABETH VARKEY
SMT. K.S.SANTHI**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
20-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

P.B.SURESH KUMAR, J.

M.A.C.A. No. 2222 of 2014

Dated this the 20th day of August, 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 is a tailor. The accident took place on 20.09.2010. The claimant was aged 43 years at the time of accident. 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.24,000/- 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.

4. The Tribunal found that the claimant sustained

various injuries including fracture of the left patella. Having regard to the injuries sustained by the claimant, the Tribunal granted compensation to the claimant towards loss of earnings for a period of three months, reckoning her monthly income at Rs.3,000/-. Since the accident took place in the year 2010, I am of the view that monthly income of the claimant should have been reckoned by the Tribunal at Rs.6,000/-. The claimant, is therefore, granted a further sum of Rs.9,000/- on that head. Towards pain and sufferings, a sum of Rs.12,000/- is seen granted by the Tribunal. Considering the nature of injuries sustained by the claimant, according to me, a sum of Rs.15,000/- would have been the just compensation payable to the claimant. She is, therefore, granted a further sum of Rs.3,000/- towards compensation for pain and sufferings. No compensation is seen granted to the claimant towards loss of amenities and enjoyments of life. In so far as the claimant has not been granted any compensation for continuing the disability sustained by her in the accident, she is entitled to get adequate compensation for loss of amenities and enjoyments in life. Having regard to the nature of injuries sustained by the

claimant, I am inclined to grant a sum of Rs.7,500/- to the claimant towards loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.19,500/- towards additional compensation.

5. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7.5% 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.19,500/- 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. 404 days as ordered in C.M.Application No. 2563 of 2014.

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