

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. 2538 of 2014

**AGAINST THE AWARD DATED 13-01-2009 IN OPMV 1964/2004 OF MOTOR ACCIDENTS
CLAIMS TRIBUNAL, KOZHIKODE**

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APPELLANT(S)/PETITIONER:

**K.K. ABDUL SAMAD, AGED 35 YEARS,
S/O. AHAMMED, KINARUKANDIYIL HOUSE,
P.O. KURUVATOOR, KOZHIKODE.**

BY ADV. SMT.K.V.RESHMI

RESPONDENT(S)/3RD RESPONDENT:

**UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE, VELIMANNA BUILDING, THAMARASSERY,
KOZHIKODE - 673 573.**

BY ADV. SRI.JOHN JOSEPH VETTIKAD

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME
UP FOR ADMISSION ON 19-02-2015, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

P.B.SURESHKUMAR, J.

M.A.C.A.No.2538 OF 2014

Dated this the 19th day of February, 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 teacher. The accident took place on 4.4.2004. The claimant was aged 35 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.18,500/- as compensation 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 of the claimant. Ext.A3 is the report of the C.T.Scan done on the claimant. The Tribunal noticed from Ext.A3 that the claimant sustained haemorrhage contusion in temporal bone, fracture of squamous part of temporal bone extending to mastoid, sphenoid hem sinus etc. Ext.A6 is the salary certificate of the claimant which indicates that the claimant was drawing Rs.9,102/- at the time of the accident. The Tribunal noticed that the claimant had taken leave for a continuous period of 30 days from the date of the accident.

5. Towards loss of income, despite the fact that the claimant produced salary certificate evidencing his monthly income of Rs.9,102/-, the Tribunal granted only a sum of Rs.6,000/- towards compensation for loss of income. In the light of Ext.A6 certificate, the claimant is entitled to a further sum of Rs.3,102/- towards loss of earnings. Towards pain and sufferings, the Tribunal granted only a sum of Rs.7,000/- to the claimant. In the nature of the injuries sustained by the claimant and the treatment undergone by him, I am of the view that the claimant is entitled to a further sum of Rs.8,000/- towards compensation for pain and sufferings. Towards loss of amenities and

enjoyments in life, the Tribunal has granted only a sum of Rs.2,000/- as compensation. On an evaluation of the nature of the injuries sustained by the claimant, I am of the view that the claimant has to be granted a further sum of Rs.8,000/- towards compensation for loss of amenities and enjoyments in life. Though the claimant had produced medical bills worth Rs.3,150/-, the Tribunal has granted only a sum of Rs.2,000/- towards medical expenses. According to me, the claimant is entitled to get reimbursement of the entire medical expenses incurred by him. The claimant is, therefore, entitled to a further sum of Rs.1,150/- towards medical expenses. No compensation is seen granted towards extra nourishment. According to me, the claimant is entitled to a sum of Rs.2,000/- towards compensation for extra nourishment as well. Thus, the claimant is entitled to a further sum of Rs.22,252/- towards compensation.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.22,252/- to the claimant by way of 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, except for the period of delay in filing the appeal, viz., 1978 days as ordered in C.M.Application No.2937 of 2014.

P.B.SURESHKUMAR, JUDGE

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