

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

MACA.No. 2566 of 2014 ()

OP(MV) NO.331/2008 OF PRL. MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE.

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APPELLANT/PETITIONER:

**SULFATH (MINOR), AGED 10 ½ YEARS, , D/B:30/03/04.
REPRESENTED BY HER FATHER AND LEGAL GUARDIAN,
MUJEEB, S/O.BEERAN, AGED 52 YEARS, PARACHIVALAPPU,
KONAD, P.O. WEST HILL, KOZHIKODE.**

BY ADV. SRI.V.S.CHANDRASEKHARAN.

RESPONDENTS/RESPONDENTS/RESPONDENTS 1 & 3 IN OP(MV):

- 1. THE MANAGING PARTNER,
KERALA TRANSPORT COMPANY,
YMCA ROAD, KOZHIKODE -673 361.**
- 2. THE NEW INDIA ASSURANCE CO. LIMITED,
I DIVISIONAL OFFICE, SILVER PLAZA BUILDING,
I.G. ROAD, KOZHIKODE- 673 361.**

**R2 BY ADVS. SMT.T.C.SOWMIAVATHY,
SRI.A.A.ZIYAD RAHMAN.**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE A1:** MEMO DATED 27/05/2014 ISSUED BY ADVOCATE RASHMI K.V. TO SRI.SANTHOSH KUMAR K.P., ADVOCATE CLERK.
- ANNEXURE A2:** REPLY ISSUED BY SRI.SANTHOSH KUMAR K.P, ADVOCATE CLERK DATED 30/05/2014.
- ANNEXURE A3:** LETTER ISSUED TO SRI.ANIL THOMAS, ADVOCATE BY ADVOCATE RASHMI K.V. DATED 02/06/2014.
- ANNEXURE A4:** MEMO ISSUED BY ADVOCATE ANIL THOMAS TO SRI.SANTHOSH KUMAR K.P., ADVOCATE CLERK DATED 03/06/2014.
- ANNEXURE A5:** LETTER ISSUED BY ADVOCATE ANIL THOMAS TO THE REGISTRAR HIGH COURT OF KERALA DATED 04/06/2014.

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.2566 of 2014.

Dated this the 23rd day of March, 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 was a child aged 3 ½ years at the time of accident. The accident took place on 23.11.2007. 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.15,683/- 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.

3. Heard the learned counsel for the claimant and the learned counsel for the insurer.

4. The Tribunal found that the claimant sustained fracture of both bones of her right leg, fracture of occipital bone, and multiple injuries on her face. Ext.A2 is the wound certificate. The Tribunal also found that the claimant was admitted and treated in the hospital from 23.11.2007 to 30.11.2007. Despite the aforesaid injuries, the Tribunal granted only a sum of Rs.13,000/- towards pain and sufferings. According to me, in the nature of the injuries sustained by the claimant, she is entitled to a further sum of Rs.7,000/- towards compensation for pain and sufferings. No compensation is seen granted by the Tribunal towards extra nourishment. I am of the view that a sum of Rs.3,000/- is to be granted towards compensation for extra nourishment to the claimant. Only a sum of Rs.1,000/- is seen granted to the claimant towards bystander's expenses. Since the accident took place in the year 2007 and the claimant was admitted and treated in the hospital as inpatient for eight days, I am of the view that the claimant is entitled to a further sum of Rs.1,000/- towards compensation on that head. Towards loss of amenities and enjoyments in life, it is seen that the Tribunal had granted only a sum of Rs.500/-. I

am of the view that the claimant is entitled to a further sum of Rs.9,500/- on that head as well. Thus, the claimant is entitled to a further sum of Rs.20,500/- towards compensation.

5. 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.20,500/- 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., 1646 days as ordered in C.M.Application No.2964 of 2014.

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

Kvs/-

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PA TO JUDGE.