

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. 2019 of 2010 ()

**(AGAINST THE AWARD IN OP(MV).NO. 1467/2006 OF MOTOR ACCIDENTS CLAIMS
TRIBUNAL, IRINJALAKUDA DATED 29-04-2010)**

APPELLANT/PETITIONER IN OP(MV) :

**PHILIP, S/O.KURIAKOSE, KUZHIKANDATHIL HOUSE,
(SWAPNA CHITHRA), MURINGOOR-THEKKUMMURI VILLAGE,
KORATTY P.O, MUKUNDAPURAM TALUK, THRISSUR DISTRICT.**

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

RESPONDENT(S)/RESPONDENTS IN OP(MV):

- 1. THE PROPRIETOR, DEEPAK MIRROR WORKS,
KADAVANTHARA, KOCHI- 682 020.**
- 2. VARGHESE,S/O.KURIAKOSE,THEKKAN HOUSE,
VETTEKADAVU, MELOOR P.O, PIN -680 311.**
- 3. ORIENTAL INSURANCE CO. LTD.,
KADAVANTHRA BRANCH, KOCHI- 682 020.**

**R3 BY ADV. SRI.VPK.PANICKER
SMT.REMYA KRISHNAN**

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

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P.B.SURESH KUMAR, J.

M.A.C.A.No.2019 OF 2010

Dated this the 23rd 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 claim petition was instituted alleging that damage was caused to the vehicle owned by the claimant in the accident took place on 16.8.2005. The accident occurred on account of the collision of the tempo van driven by the second respondent with the vehicle owned by the claimant. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to a sum of Rs.20,330/- by way of compensation and accordingly, passed an award for the said amount.

3. To substantiate the claim, the claimant had produced before the Tribunal, a report prepared by a Surveyor engaged by him to assess the loss caused to him. Ext.A7 is the report prepared by the Surveyor. In Ext.A7, the costs of spare parts was assessed by the

Surveyor at Rs.20,765/- and the labour charges was assessed at Rs.9,200/-. The Tribunal took the view that since the vehicle owned by the claimant is a 1995 model motor car, a minimum of 50% will have to be deducted from the cost of spare parts towards depreciation. Consequently, only a sum of Rs.10,380/- was granted towards cost of spare parts. The claimant is aggrieved by the said decision of the Tribunal.

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

5. The learned counsel for the claimant contended that the claim raised before the Tribunal being a third party claim, there is no reason to reduce any amount towards depreciation and he should have been granted the entire amount required to repair and bring the vehicle back to its original position.

In ***Abraham v. Johnny [2009 (4) KLT 679]***, a Division Bench of this Court in an identical case upheld the deduction of depreciation. In the light of the said decision of the Division Bench, the impugned award of the Tribunal is in order and the appeal is accordingly, dismissed.

P.B.SURESH KUMAR, JUDGE

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