

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

MACA.No. 2244 of 2010 ( )

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OPMV 629/2004 of MACT, KALPETTA

APPELLANT/PETITIONER :

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VARGHESE MATHAI, AGED 56 YEARS,  
S/O.MATHAI, KOLLIYELI HOUSE, POKALAMALAM  
CHETHALAYAM POST, KIDANGANAD VILLAGE, S.BATHERY TALUK.

BY ADV. SMT.CELINE JOSEPH

RESPONDENTS/RESPONDENT NO.2 & 3:

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1. GEORGE JOSEPH K., AGE NOT KNOWN,  
S/O.JOSEPH K.V., KOCHIKUNNEL HOUSE, S.BATHERY POST  
WAYANAD DISTRICT, (R.C.OWNER OF  
THE VEHICLE BEARING NO. KL 12A/6177 LORRY)
  2. THE BRANCH MANAGER, UNITED INDIA  
INSURANCE CO.LTD., BRANCH OFFICE, RAWTHER BUILDING  
NEAR PINANGODE ROAD JUNCTION MAIN ROAD, KALPETTA.

R2 BY ADV. SRI.UNNI. K.K. (EZHUMATTOOR)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 17-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**P.B.SURESH KUMAR, J.**

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**M.A.C.A. No.2244 of 2010**  
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**Dated 17<sup>th</sup> July, 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 cleaner in a lorry. The accident took place on 6.11.2003. The claimant was aged 50 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.12,250/- and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance policy, 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. The claimant sustained dislocation of clavicular joint and fracture of ribs in the accident. He was admitted and treated in the hospital for 8 days. Ext.A3 is the wound certificate issued to the claimant from Baby Memorial Hospital, Calicut and Ext.A5 is the discharge certificate issued to him from the said hospital.

5. As noticed above, the claimant is a lorry cleaner. Despite the injuries referred to above, the Tribunal granted only a sum of Rs.2,000/- to the claimant towards loss of earnings. Since the accident took place in the year 2003, the monthly income of the claimant should have been reckoned by the Tribunal at least at Rs.4,500/-. Likewise, in the nature of the injuries sustained by the claimant, he should have been granted compensation for loss of earnings at least for a period of three months. Thus, the claimant is entitled to a further sum of Rs.11,500/- towards compensation for loss of earnings. The claimant is a person residing at Sulthan Bathery and the

accident took place at Sulthan Bathery. As noticed above, the claimant had undergone treatment at Baby Memorial Hospital, Calicut, for the injuries sustained by him in the accident. Having regard to the said facts, I am of the view that the claimant should have been granted at least a sum of Rs.2,000/- towards transport to hospital. It is seen that the claimant had been granted only a sum of Rs.600/- by the Tribunal towards transportation expenses. Therefore, the claimant is entitled to a further sum of Rs.1,400/- on that head. Towards extra nourishment, only a sum of Rs.600/- is seen granted. According to me, in the nature of the injuries suffered by the claimant, he should have been granted at least a sum of Rs.2,500/- on that head. Thus, the claimant is entitled to a further sum of Rs.1,900/- towards extra nourishment. Towards bystander's expenses, though the claimant had undergone inpatient treatment in the hospital for eight days, only a sum of Rs.500/- is seen granted. Since the accident took place in the year 2003, according to me, the claimant is entitled to a further sum of Rs.1,000/- on that head. Towards pain and sufferings,

despite the injuries referred to above, the Tribunal granted only a sum of Rs.6,000/-. According to me, the claimant is entitled to a further sum of Rs.9,000/- on that head. No compensation is awarded towards loss of amenities and enjoyments in life. In the absence of any compensation for continuing permanent disability, the claimant is entitled to a reasonable amount towards loss of amenities and enjoyments in life, which I fix at Rs.7,500/-. Thus, the claimant is entitled to a further sum of Rs.32,300/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 6% 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.32,300/- 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

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9% per annum.

**Sd/-**

**P.B.SURESH KUMAR, JUDGE.**

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(true copy)