

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

MACA.No. 2879 of 2014

OP(MV) 55/2011 of MOTOR ACCIDENT CLAIM TRIBUNAL, VADAKARA.
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APPELLANT/PETITIONER:

**DIJESH T, 24 YEARS,
S/O.DAMODHARAN, THEKKAYIL HOUSE,
CHELAKKATTU (PO), KALLACHI (VIA), PIN - 673506.**

BY ADV. SMT.K.DEEPA (PAYYANUR)

RESPONDENT/RESPONDENT NO.3:

**THE BRANCH MANAGER,
ORIENTAL INSURANCE CO.LTD,
SREENIDHI BUILDING, VATAKARA,
KOZHIKODE, PIN - 673101.**

**BY ADVS. SRI.R.PADMARAJ
SRI.P.J.ANTONY JOSEPH MARIADAS
SMT.K.S.SANTHI**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 08-04-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

MACA.No. 2879 of 2014

APPENDIX

PETITIONER'S ANNEXURES:

**ANNEXURE A1 : ORIGINALS OF MEDICAL BILLS AND STATEMENT OF
 AMOUNTS.**

RESPONDENT'S ANNEXURES: - **NIL**

/TRUE COPY/

P.S. TO JUDGE

mbr/

P.B.SURESH KUMAR, J.

M.A.C.A.No.2879 of 2014.

Dated this the 8th day of April, 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 coolie. He was aged 24 years at the time of accident. The accident took place on 15.6.2010. 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.73,593/- 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 right femur in the accident. Towards loss of earnings, the Tribunal granted a sum of Rs.36,000/- for a period of nine months reckoning the monthly income of the claimant at Rs.4,000/-. Since the accident took place in the year 2010, according to me, the monthly income of the claimant should have been reckoned at Rs.5,000/-. The claimant is therefore entitled to a sum of Rs.9,000/- towards compensation for loss of earnings. The claimant was granted only a sum of Rs.15,000/- towards pain and sufferings. The Tribunal found that in the nature of the injury sustained by the claimant, he could have worked at least for a period nine months and it is on that basis, compensation for loss of earnings was granted for the said period. Having regard to the serious injury sustained by the claimant and the prolonged immobilisation, I am of the view that he is entitled to a further sum of Rs.10,000/- towards compensation for pain and sufferings. Towards compensation for loss of amenities and enjoyments in life, only a sum of Rs.5,000/- is seen awarded. Having regard to the injury sustained by the claimant, I am of the view that he is entitled to a further sum of Rs.5,000/- on that head. Thus, the claimant is entitled to a further sum of Rs.24,000/- towards 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.24,000/- 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., 155 days as ordered in C.M.Application No.3305 of 2014.

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

Kvs/-

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PA TO JUDGE.