

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

MACA.No. 2746 of 2009

**AGAINST THE AWARD DATED 10-06-2009 IN OPMV 907/2006 OF MOTOR ACCIDENT
CLAIMS TRIBUNAL, OTTAPPALAM**

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APPELLANT(S)/PETITIONER:

**STANLY, AGED 35 YEARS,
S/O. KURIAKOSE, ENANIKKAL HOUSE,
KODUVALPPARA, POTHUNDY,
NENMARA, PALAKKAD.**

BY ADV. SRI.SHEJI P.ABRAHAM

RESPONDENT(S)/RESPONDENTS:

- 1. SHIJO, S/O.JOY,
AIKYATHODIKKAL HOUSE, VETTIKADU,
KAIKANDUR VILLAGE, THRISSUR.**
- 2. SUNNU JOSEPH, 2/756,
MALAYAKANDATHIL HOUSE, POTHUNDY P.O, PALAKKAD.**
- 3. THE NEW INDIA ASSURANCE CO. LIMITED,
NEHRU MEMORIAL HALL, 3RD FLOOR, DR. AMBEDKAR ROAD
PUNE - 411 001., POLIE NO. D1/152600/162711
VALID FROM 17/03/206 TO 16/03/2007**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 09-03-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

msv/

P.BSURESH KUMAR, J.

M.A.C.A.No.2746 OF 2009

Dated this the 9th 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 claimant is a driver. The accident took place on 21.6.2006. 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.21,050/- 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 discharge certificate issued to the claimant from the Jubilee Mission Medical College & Research Institute, Thrissur. It is seen from Ext.A2 that the claimant had undergone inpatient treatment in the said hospital from 21.6.2006 to 30.6.2006. It is also seen from Ext.A2 that the claimant had sustained a cut injury on his upper lip and a lacerated wound on the left forehead. It is also seen that he suffered neck contusion in the accident. Ext.A7 C.T. Scan report reveals that the claimant had sustained fracture on the roof of left orbit.

5. The Tribunal granted only a sum of Rs.4,500/- towards loss of earnings for a period of 1 ½ months, reckoning his monthly income at Rs.3,000/-. The accident took place in the year 2006. Since the claimant is a driver, he should have been granted compensation for loss of earnings for a period of two months, reckoning the monthly income at Rs.4,500/-. The claimant is, therefore, entitled to a further sum of Rs.4,500/- on that head. The Tribunal granted only a sum of Rs.1,500/- towards bystanders' expenses. Considering the fact that the claimant was admitted in a hospital for nine days as inpatient, I am of the view that a further sum of Rs.1,000/- has to be granted by way of compensation towards bystanders' expenses. Only a sum of Rs.6,000/- is granted towards compensation for pain and sufferings. 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.9,000/- towards compensation for pain and sufferings. Towards loss of amenities and enjoyments in life, the Tribunal has granted only a sum of Rs.3,000/- 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.7,000/- towards loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.21,500/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 8% 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.

7. In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.21,500/- 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.

Sd/-

P.B.SURESH KUMAR, JUDGE

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