

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. 2441 of 2010 ()

AGAINST THE AWARD IN OPMV 435/2009 of M.A.C.T.,
KOZHIKODE, DATED 02-02-2010.

APPELLANT/PETITIONER:-

NANDINI, W/O. GOPI, AGED 57 YEARS,
PULLANCHOLI HOUSE, P.O. THALAKULATHOOR, PURAKKATTIRY
KOZHIKODE.

BY ADVS.SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN

RESPONDENTS/RESPONDENTS:-

1. RIYAS, S/O. BEERAN, AGE NOT KNOWN,
THAYYULLAPARAMBIL HOUSE, P.O.URLLUR, ARIKKULAM
KOYILANDY, KOZHIKODE-673620.

2. AMMED.K., S/O. MOIDEEN, AGED 45 YEARS,
CHAVARAYAT MEETHAL HOUSE, P.O.KARAYAD, MEPPAYOOR
KOZHIKODE-673524.

3. THE NEW INDIA ASSURANCE CO. LTD.,
DIVISIONAL OFFICE, SHAFEER COMPLEX, 6/975D
OPP. YMCA, KANNUR ROAD, KOZHIKODE-673001.

R3 BY ADV. SMT.RAJI T.BHASKAR

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

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A.No.2441 of 2010.

Dated this the 9th 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 is a tailor. The accident took place on 10.11.2008. The claimant was aged 56 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.13,500/- 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. The Tribunal noticed that the claimant sustained fracture of ribs on the left side, fracture of sacrum, a lacerated wound of 5 x 2 cm. over posterior aspect of scalp etc. in the accident. Ext.A6 is the reference card issued from the hospital showing that the claimant was admitted as an inpatient on 10.11.2008 and discharged on 25.11.2008.

5. As noticed above, the claimant was a tailor. Despite the fact that she had undergone inpatient treatment in the hospital for 14 days, the Tribunal has granted only a sum of Rs.1,500/- towards loss of earnings. In the nature of the injuries sustained by the claimant, according to me, she is entitled to compensation for loss of earnings at least for a period of two months, reckoning her monthly income as Rs.4,500/-. The claimant is therefore, entitled to a further sum of Rs.7,500/- towards compensation for loss of earnings. Only a sum of Rs.500/- is seen granted towards extra nourishment. In the nature

of the injuries sustained by the claimant and the treatment undergone by her, she has to be granted a sum of Rs.2,500/- more towards extra nourishment. Likewise, the claimant who has undergone inpatient treatment for a period of 14 days, was granted only a sum Rs.500/- towards bystander's expenses. Since the accident took place in the year 2008, I am of the view that the claimant is entitled to a further sum of Rs.3,500/- towards bystander's expenses. Towards pain and sufferings, only a sum of Rs.9,000/- is seen granted. On an evaluation of the materials on record, I am of the view that the claimant is entitled to a sum of Rs.6,000/- more towards compensation for pain and sufferings. Towards loss of amenities and enjoyments in life, only a sum of Rs.1,000/- is seen granted by the Tribunal. In the nature of the injuries sustained by the claimant, I am of the view that the claimant is entitled to a sum of Rs.9,000/- more towards compensation on that head. Thus, the claimant is entitled to a further sum of Rs.28,500/- towards

compensation.

6. 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.28,500/- 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.

Kvs/-

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PA TO JUDGE.