

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. 3054 of 2014

**AGAINST THE AWARD IN OP(MV) 1313/2009 of MOTOR ACCIDENTS CLAIMS
TRIBUNAL, KOLLAM DATED 16-07-2012**

APPELLANT(S)/PETITIONER:

**PRAKASH, AGED 32 YEARS,
S/O. PRABHAKARAN, THATTASSERIL VEEDU, ADINADUMURI,
ADINADU VILLAGE.**

BY ADV. SRI.K.SIJU

RESPONDENT(S)/3RD RESPONDENT:

**THE DIVISIONAL MANAGER
M/S. ORIENTAL INSURANCE CO.LTD., BRANCH OFFICE
KAYAMKULAM-690502.**

**BY ADVS. SMT.REKHA NAIR
SMT.K.S.SANTHI**

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

PJ

P.B.SURESH KUMAR, J.

M.A.C.A.No.3054 of 2014.

Dated this the 23rd 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 Mason. He was aged 25 years at the time of accident. The accident took place on 5.6.2006. 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.49,000/- 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. Ext.A6 is the wound certificate of the claimant. Ext.A7 is the discharge card issued to the claimant from the hospital where he was admitted and treated for the injuries sustained in the accident. Ext.A10 is the treatment certificate issued to the claimant from Unity Orthopaedic Centre, Karunagappally. The Tribunal found that the claimant sustained various injuries including fracture of the third meta tarsal of the head of second toe in the accident. The Tribunal also found that the claimant was admitted and treated as inpatient in the hospital for a period of 13 days from 5.6.2006 to 18.6.2006.

5. Though a sum of Rs.18,000/- was claimed towards compensation for loss of earnings, the Tribunal granted only a sum of Rs.9,000/- on that head reckoning his monthly income at Rs.3,000/-, for a period of three months. As noticed above, the claimant is a Mason. The accident took place in the year 2006. As such, according to me, the claimant is entitled to compensation for loss of earnings reckoning his monthly income at Rs.6,000/-. The claimant

is therefore entitled a sum of Rs.9,000/- more on that head. Towards pain and sufferings, only a sum of Rs.15,000/- is seen granted to the claimant. According to me, the claimant is entitled to a further sum of Rs.5,000/- towards compensation for pain and sufferings. Towards loss of amenities and enjoyments in life, the Tribunal granted a sum of Rs.10,000/- to the claimant. Since no compensation was granted by the Tribunal to the claimant for continuing the disability, if any, I am of the view that the claimant is entitled to a further sum of Rs.10,000/- towards compensation for loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.24,000/- towards compensation.

6. 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., 714 days, as ordered in C.M.Application No.3509 of 2014.

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

Kvs/-

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PA TO JUDGE.