

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

MACA.No. 788 of 2005 ()

AGAINST THE AWARD IN OPMV 215/1999 of ADDL.D.C. & ADDL.MACT, THALASSERY
DATED 04-09-2004

APPELLANT(S)/CLAIMANTS

1. K.D.JOSE, S/O.DEVASSYA,
AGED 33 YEARS, KALAPPURATHOTIYIL VEEDU, KELANPEEDIKA
KUNNOTH P.O., KILIYANTHARA.

2. CHINNAMMA VARGHESE,
D/O.VARGHESE, AGED 30 YEARS, KALAPPURATHOTIYIL VEEDU
KELANPEEDIKA, KUNNOTH P.O., KILIYANTHARA.

BY ADV. SRI.P.V.MOHANAN

RESPONDENT(S) :

1. T.SIBY MATHEW, S/O.MATHEW,
THOTTATHIL HOUSE, P.O.KILIYANTHARA, PIN-670 706.

2. T.S.MATHEW, S/O.SEBASTIAN,
THOTTATHIL HOUSE, P.O.KILIYANTHARA
(OWNER OF THE VAN KL-13 A 2989).

3. NATIONAL INSURANCE COMPANY, BANK ROAD, KANNUR,

R,R3 BY ADV. SMT.RAJI T.BHASKAR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**T.R. RAMACHANDRAN NAIR &
P.V. ASHA, JJ.**

M.A.C.A.No.788 of 2005

Dated this the 9th day of April, 2015

JUDGMENT

Asha, J.

The parents of the deceased Shaise Jose have filed this appeal seeking enhancement of compensation. The deceased met with an accident at the age of 8 years while he was walking along Koottupuzha - Iritty road, on being hit by a jeep. A claim petition was filed seeking compensation of Rs.2,25,000/- and the Tribunal awarded a sum of Rs.1,01,500/-.

2. We heard learned counsel appearing on either side.

3. Learned counsel for the insurance company submitted that the award passed by the Tribunal is just and reasonable.

4. The appellants lost their child when he was aged 8 years and 8 months only. The loss of their child at an early age cannot be recouped by any amount of compensation, but the Tribunal has arrived at a notional income of Rs.700/- per month and awarded a sum of

Rs.84000/- towards pecuniary loss caused by the death of the child.

We are of the view that a notional income of Rs.15,000/- annually ought to have been reckoned and adopting the multiplier of 15, a sum of Rs.2,25,000/- should be admissible to the parents under this head.

For pain and suffering, the Tribunal has already awarded a sum of Rs.5,000/-. In addition to that, the appellants are entitled for compensation under the head loss of love and affection, funeral expenses and pain and suffering also. We therefore enhance the compensation under the head of loss of love and affection to Rs.50,000/- and a sum of Rs.15,000/- is awarded towards funeral expenses.

Therefore, the total compensation will be as follows:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal</i>	<i>Modified award passed by this Court</i>
Transport to hospital	2000	2000
Damage to clothing	500	500
Loss of dependency	84000	225000
Loss of love and affection	10000	50000
Pain and suffering	5000	5000
Funeral expenses		15000
Total		297500

The enhanced amount of compensation will carry interest at the rate of 9% per annum from the date of petition till realisation and the insurance company is directed to deposit the entire amount of compensation less the amount already deposited before the Tribunal, within a period of three months. The compensation shall be apportioned among the appellants equally.

The appeal is allowed as above. The parties shall suffer their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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