

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 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

MACA.No. 2100 of 2012 ()

AGAINST THE AWARD IN OPMV 717/2008 ON THE FILE OF THE MOTOR ACCIDENTS
CLAIMS TRIBUNAL, OTTAPPALAM DATED 06-06-2012

APPELLANT/3RD RESPONDENT IN THE O.P:

THE ORIENTAL INSURANCE CO.LTD
THODUPUZHA, REPRESENTED BY THE AUTHORISED SIGNATORY
THE ORIENTAL INSURANCE CO. LTD., REGIONAL OFFICE
METRO PALACE, ERNAKULAM NORTH, KOCHI -18.

BY ADV. SRI.A.R.GEORGE

RESPONDENTS/CLIAMANTS AND RESPONDENTS 1 AND 2 IN THE O.P.:

1. SAYIDALAVI
S/O. KUNJU MOIDU, VALIYAPEEDIKAKAL HOUSE, VAZHAMPURAM
KARAKURISSI, MANNARKAD - 678 582.

2. AYSHAKUTTY,
W/O. SAIYADALAVI, -DO-

3. MUJEEB
S/O. SAYIDALAVI, -DO-

4. RAZAK MOULAVI
SECRETARY, DARUL SALAM ORPHANAGE, KARAKURISSI
MANNARKKAD, PALAKKAD - 678 582.

5. MUHAMMED SHAFEEQUE
S/O.SAYIDALAVI, PADINJERTHIL HOUSE, KAVUMPADI
KARAKKURISI, MANNARKKAD, PALAKKAD - 678 582.

RR-R5 BY ADV. SRI.K.B.ARUNKUMAR

R1,R2 BY ADV. SRI.RAJESH SIVARAMANKUTTY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 12-02-2015, ALONG WITH MACA. 2117/2012, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

AL/-

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

M.A.C.A Nos.2100/2012 & 2117/2012

Dated this the 12th day of February 2015

JUDGMENT

Ramachandran Nair , J.,

Both these appeals are heard together and accordingly are disposed of together. These appeals are filed by the Insurance Company. M.A.C.A. 2100/2012 is filed from the award in O.P.(MV) 717/2008 on the file of the Motor Accidents Claims Tribunal, Ottapalam. The accident occurred on 24.10.2007. O.P.(MV) No. 717/2008 is filed for compensation for the death of one late Sri.Sadique deceased and in the other case the application was filed by the injured. They were travelling in a motorcycle as a rider and pillion rider from Mannarkad to Karakurusi. Near Darul Islam School, a van bearing registration No.KL 9 T 6760 hit the motor cycle and they sustained serious injuries. They were taken to the Al-Shifa Hospital, Perinthalmanna and thereafter the deceased was referred to Moulana Hospital, Perinthalmanna and he succumbed to the injuries on 29.10.2007. The respondent in M.A.C.A. No. 2117/2012 was treated in the Al-Shia hospital. The Tribunal has granted compensation in both cases accepting the case of the applicants. In O.P.(MV) 717/08, the Tribunal has granted total amount as Rs. 3,95,800/- and in O.P.(MV) No.271/09 the Tribunal has granted an amount of Rs. 43,500/-.

2. We heard the learned counsel for the Insurance Company and learned counsel for the respondents /claimants.

3. The main contention in M.A.C.A. Nos. 2100/2012 is that the age of the parents should have been reckoned for the purpose of granting compensation. In the light of the judgment of the Apex Court in ***Sarla Verma v. Delhi Transport Corporation [(2010) (2) KLT 802 (SC)]*** and later other cases, the age of the deceased will have to be taken to adopt the multiplier. Therefore, the said argument does not survive. Further contention raised is that the driver had no badge. It also is covered against the appellant in the light of the decision of the Full bench of this Court reported in ***National Insurance Co. Ltd. v. Jisha [(2015) (1)KLT 1 (F.B)]***. The same is the point raised in M.A.C.A No.2117/2012.

4. Therefore, both these appeals are dismissed confirming the award of the tribunal. It is submitted by the learned counsel for the Insurance Company that the amounts have been already deposited before the Tribunal. We therefore, direct the Tribunal to release the amount to the claimants.

5. Accordingly, these appeals are dismissed. The parties will bear their respective costs in the appeal.

Sd/-

**T.R.RAMACHANDRAN NAIR
(JUDGE)**

Sd/-

**P.V.ASHA
(JUDGE)**

AL/-

True copy

P.A to Judge