

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

MACA.No. 442 of 2015 ()

AGAINST THE AWARD IN OPMV 1585/2007 of MACT, PATHANAMTHITTA
DATED 10-03-2014

APPELLANT(S)/2ND RESPONDENT:

THE NEW INDIA ASSURANCE CO. LTD.
PATHANAMTHITTA, REPRESENTED BY ITS MANAGER
REGIONAL OFFICE, KANDOMKULATHY TOWERS, M.G.ROAD
ERNAKULAM, KOCHI-11.

BY ADVS.SMT.K.S.SANTHI
SMT.LATHA SUSAN CHERIAN

RESPONDENT(S)/CLAIMANTS:

1. NAZARUDEEN
S/O ABDULKHADER RAWTHER, SHEHANNA BHAVAN
PARAKKODE P.O., ADOOR, PIN-691 523.

2. SOPHIA.M,
W/O NAZARUDEEN, SHEHANNA BHAVAN,
PARAKODE PO, ADOOR - 691 523.

3. NANDANAN @ NANDAN, S/O KESAVAN ACHARY,
PULIKKASSERY VEEDU, NALUKETTINPADI,
CHETHAKKAL PO,
RANNY-689 672.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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

M.A.C.A No.442 of 2015

Dated this the 6th day of April, 2015

JUDGMENT

Ramachandran Nair, J.

When C.M.Appl.No.491 of 2015 was posted, we heard the learned Senior Counsel for the appellant in the appeal also. The appeal is filed from the award in O.P(MV) No.1585/2007.

3. Going by the award, a total amount of Rs.5,81,000/- has been granted as general and special damages. The deceased was aged 9 ½ years on the date of the accident and was a student. The Tribunal adopted Rs.30,000/- as the yearly notional income and adopted the multiplier of 15 and loss of dependency has been calculated as Rs.4,50,000/-, an amount of Rs.50,000/- has been granted towards funeral expenses and loss of love and affection, for future prospects Rs.75,000/- has been granted, for transportation expenses Rs.5,000/- and for damage to clothing an amount of Rs.1,000/- has also been granted.

4. The grounds taken in the appeal are that the quantum is excessive and that there was no fitness certificate for the vehicle. As far as the absence of fitness certificate is concerned,

same is covered by the Full Bench decision of this Court in **Augustine V.M v. Ayyappankutty @ Mani & another** [2015 (2) KHC 219] against the appellant and therefore the said ground is unsustainable. As far as the fixation of compensation also, it is seen that the same is reasonable, going by the discussions in the award. The deceased was a bright student and was aged 9 ½ years. The Tribunal awarded compensation as per the guidelines prescribed in **Kishan Gopal & Anr. v. Lala & Ors.** [2013 ACJ 2594(SC)].

For all these reasons, we find no reason to interfere with the award and accordingly the appeal is dismissed.

Sd/-
T.R.RAMACHANDRAN NAIR
Judge

Sd/-
P.VASHA
Judge

rtr/

/true copy/

P.S to Judge