

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

MACA.No. 997 of 2013 ()

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AGAINST THE AWARD IN OPMV 572/2009 ON THE FILE OF THE MOTOR ACCIDENTS  
CLAIMS TRIBUNAL,KASARAGOD DATED 03-09-2012

APPELLANTS/CLAIMANTS:

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1. NAZRANA BANU AGED 20 YEARS  
D/O.SHEIK SABIR ALI, BAITHUL SABIR, NEAR KSEB  
UPPALA P.O., UPPALA.

2. RIZWANA BANU AGED 43 YEARS  
W/O.SHEIK SABIR ALI, BAITHULA SABIR NEAR KSEB  
UPPALAP.O., UPPALA.

BY ADV. SMT.R.PADMAKUMARI

RESPONDENTS/RESPONDENTS:

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1. NARAYANA RAI  
S/O.AITHAPPA RAI, HOSAMANE COMPOUND, KANNURPADIAL  
MANGLORE DISTRICT.

2. THE BRANCH MANAGER  
M/S.NATIONAL INSURANCE COMPANY LTD, RASIK CHAMBERS  
2ND FLOOR, CENTRAL ROAD, MANGLORE-575 001.

R1 BY ADV. SRI.JAWAHAR JOSE  
R1 BY ADV. SRI.JAISON M.EASOW  
R BY SRI.M.A.GEORGE  
R2 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR  
ADMISSION ON 13-03-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

AL/-

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

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M.A.C.A. No.997 of 2013  
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Dated this the 13<sup>th</sup> day of March 2015

**JUDGMENT**

**Ramachandran Nair , J.,**

The first and 2<sup>nd</sup> appellants are respectively the daughter and her mother as the application was filed by the 2<sup>nd</sup> appellant as guardian while the former was a minor girl.

2. The accident occurred on 3.9.2008 at 15:20 hours when she was travelling in a taxi bearing Registration No. K.A.19P/7843. The offending vehicle is a lorry bearing Registration No. K.A. 20.A/6399 which hit the car whereby, she sustained very grievous injuries. She was immediately admitted in Unity Health Complex Mangalore and was treated as inpatient till 8.9.2008. The appeal is filed on the question of inadequacy of compensation.

3. We heard learned counsel on both sides.

4. The injured was aged 16 years at the time of the accident. Learned counsel for the appellant submitted that the

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compensation granted under various heads is inadequate. It is also a finding of the Tribunal that the accident and treatment left an ugly scar on the left forehead. It is submitted that the Tribunal has granted only Rs. 30,000/- towards disfigurement. No amount has been granted separately under the head loss of prospects of marriage. It is also submitted that the amount awarded towards transportation is too low. The treatment was in Mangalore. According to the learned counsel, the injured sustained the following injuries :

- 1. Contusion scalp with fracture temporal bone Sub Arachnid hemorrhage and subtotal hemorrhage.*
- 2. Swelling left upper chest fracture collar bone (Clavicle).*
- 3. Shortening of left eye*

5. Therefore, she had to suffer pain and agony. It is also submitted that the amount granted towards bystander's expenses is also not properly assessed.

6. Learned counsel for the Insurance Company submitted that there is no permanent disability as far as the applicant is concerned. The Tribunal has granted amount for each and every item after assessing the relevant materials.

7. As far as expenses for transportation is concerned, it is clear that the injured was treated in the hospital at Mangalore

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and thereafter in Kozhikode. Therefore, we grant an amount of Rs. 3,000/- towards transportation. For pain and suffering Rs. 15000/- is granted by the Tribunal and we enhance the same to Rs. 25,000/-. As far as extra nourishment is concerned, we enhance the same to Rs. 3,000/-. For expenditure of bystander we grant a further amount of Rs.1,000/-making the total to Rs.2,000/-. As far as the loss of prospects of marriage is concerned in the light of an ugly scars on her forehead, we have to consider it along with disfigurement. For the disfigurement, total amount of Rs.30,000/- has already been granted. By reckoning the young age we grant an amount of Rs. 45,000/- for loss of prospects of marriage. Accordingly we modify the award as follows:

| Sl. No. | Heads of claim                        | Amt. Awarded | Amt. modified |
|---------|---------------------------------------|--------------|---------------|
| 1       | Transportation                        | 1000         | 3000          |
| 2       | Pain and suffering                    | 15000        | 25000         |
| 3       | Extra nourishment                     | 2000         | 3000          |
| 4       | Treatment expenses                    | 27350        | 27350         |
| 5       | Bystander expenses                    | 1000         | 2000          |
| 6       | Continuing or permanent disfigurement | 30000        | 30000         |
| 7       | Loss of prospects of marriage         | Nil          | 45000         |
|         | Total                                 | 76350        | 1,35,350      |

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8. Therefore, the total compensation will be Rs.1,35,350/- (Rupees one lakh Thirty five Thousand Three hundred and Fifty only). The enhanced compensation will carry interest at the rate of 9% p.a from the date of petition. The appellant being a major now, we direct the Insurance Company to deposit the amount within a period of three months. The first appellant is permitted to withdraw the amount also. The parties will bear their costs in this appeal.

**Sd/-**

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

**Sd/-  
P.V.ASHA  
(JUDGE)**

AL/-

True copy

P.A to Judge

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