

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 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

MACA.No. 1270 of 2010 ()

AGAINST THE AWARD IN OPMV 1263/2004 of M.A.C.T., KOZHIKODE DATED
18-01-2010

APPELLANT/PETITIONER:

AJAY KRISHNAN, AGED 15 YEARS,
SON OF KRISHNAN, KUZHIPATTIL HOUSE, P.O.KUNNATHARA
KOYILANDY TALUK.
THE APPELLANT IS A MINOR AND IS REP.BY HIS MOTHER
REENA, W/O.KRISHNAN, AGED 35 YEARS
KUZHIPATTIL, HOUSE, P.O.KUNNATHARA
KOYILANDI TALUK

BY ADVS.SRI.JACOB ABRAHAM
SMT.KOCHUMOL KODUVATH

RESPONDENTS/RESPONDENTS:

1. SIVADASAN.P., SON OF DHAMODARAN NAIR,
PILAKKAL HOUSE, NANDERI.P.O, KOYILANDI
KOZHIKODE DISTRICT.

2. N.BALAKRISHNAN, SON OF KUTTAPPU,
NEROTH HOUSE, PANANGADU AMSOM, VIA BALUSSERRY
KOZHIKODE DISTRICT.

3. THE NATIONAL INSURANCE CO.LTD.,
DIVISIONAL OFFICE, NOOR COMPLEX, MAVOOR ROAD
KOZHIKODE.

R3 BY ADV. SRI.M.A.GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 22-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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

M.A.C.A.No.1270 OF 2010

Dated this the 22nd day of January, 2015

JUDGMENT

Asha, J.

A minor aged 9 years was involved in an accident while he was travelling along with his grandmother in a bus. The bus in which he was travelling hit against another bus and he sustained very serious injuries. He was taken to the Medical College Hospital, Kozhikode and underwent treatment therein for a period of 11 days. As per Ext.A2 wound certificate, it is seen that he sustained haemorrhagic contusion involving right temporal region, subarachnoid haemorrhage and fracture of right temporal region. Apart from this, splenic laceration/perisplenic haematoma was also sustained on him. He was subjected to splenectomy in addition to the treatment for the other injuries. The disability was assessed as 12% by the Medical Board as per Ext.C1.

2. The claim petition was filed seeking compensation to the

tune of ₹ 3 lakhs. The Tribunal has awarded a total compensation of ₹1,01,482/-. Being a child, the Tribunal reckoned his notional income as ₹3,000/- and adopting a multiplier of 15, with reference to the disability factor of 12% assessed the compensation towards permanent continuing disability as 64,800/-. The Tribunal found that since spleen is excised, it would lead to recurring complications in future life of the child. The Tribunal has also awarded a sum of ₹3,000/- towards transportation, damage to clothing and extra nourishment. A sum of ₹2582/- was awarded towards medical expenses and ₹ 1,100/- was awarded towards bystander expenses. A sum of ₹30,000/- was awarded towards pain and suffering. This appeal is filed seeking enhancement of compensation.

3. We heard the learned counsel appearing on either side. The learned counsel for the Insurance Company opposed the enhancement by pointing out that the amount awarded under various heads are fair and reasonable and no further enhancement is required.

4. We find that the child sustained very severe injuries on his head as well as spleen. In **Master Mallikarjun v. Divisional Manager, The National Insurance Company Limited and another**

(2013 (3) KLJ 815), the Apex Court held that though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor vehicle accident, having regard to the relevant factors and precedents, appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant etc. should be, if the disability is above 10% and upto 30% it should be ₹ 3 lakhs.

5. Going by the above judgment, we are of the view that a sum of ₹3 lakhs will be a just compensation to the appellant in addition to the transportation charges of ₹3,000/-, bystander expenses of ₹1,100/- and medical expenses of ₹2582/-. Thus the total compensation will be ₹3,06,682/- which is rounded off to ₹ 3,06,600/-. The amount will carry interest @ 9% per annum from the date of petition. The Insurance Company shall deposit the amount less the amount already deposited within a period of three months from the date of receipt of a copy of this judgment.

The appeal is accordingly allowed.

T.R.RAMACHANDRAN NAIR, JUDGE

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P.V.ASHA, JUDGE

