

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH**

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

MACA.No. 1907 of 2009 ()

**AGAINST THE AWARD IN OP(MV) 8/2006 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,
VADAKARA DATED 06-03-2009**

APPELLANT/3RD RESPONDENT:

**THE ORIENTAL INSURANCE CO. LTD.,
CALICUT REPRESENTED BY ITS ASSISTANT MANAGER
REGIONAL OFFICE, ERNAKULAM NORTH, KOCHI-18.**

BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)

RESPONDENTS/CLAIMANTS:

- 1. AMMED S/O. ANDRU,
NAMBAM POYIL HOUSE, NARIPPATTA AMSOM, THINUR DESOM
P.O.MULLAMBATH, VIA KAKKATTIL, VATAKARA TALUK
KOZHIKODE DISTRICT, KERALA, PIN-673 507.**
- 2. MAMI, W/O. AMMED, NAMBAM POYIL HOUSE
NARIPPATTA AMSOM, THINUR DESOM, P.O.MULLAMBATH
VIA, KAKKATTIL VATAKARA TALUK, KOZHIKODE DIST.
KERALA, PIN-673 507.**
- 3. FAZIL(MINOR) S/O. AMMED NAMBAM POYIL
HOUSE, NARIPPATTA AMSOM THINUR DESOM, P.O.MULLAMBATH
VIA, KAKKATTIL VATAKARA TALUK, KOZH
IKODE DIST., KERALA, PIN-673 507.**
- 4. FAIZ(MINOR),S/O. AMMED,
NAMBAM POYIL HOUSE, NARIPPATTA AMSOM, THINUR DESOM
P.O.MULLAMBATH, VIA, KAKKATTIL
VATAKARA TALUK, KOZHIKODE DIST. KERALA
PIN-673 507.**

**(RESPONDENTS 3 & 4 ARE MINORS AND REPRESENTED BY FATHER FIRST
RESPONDENT)**

R1-R4 BY ADV. SRI.T.G.RAJENDRAN

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
21-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**
shg/

T.R. RAMACHANDRAN NAIR & K.P. JYOTHINDRANATH, JJ.

M.A.C.A. No.1907 of 2009

Dated this the 21st day of May, 2015

J U D G M E N T

Ramachandran Nair, J.

In this appeal filed by the insurance company, the main objection raised is that after granting amount towards pain and suffering for the deceased at Rs.50,000/- and another amount of Rs.25,000/- has been granted for mental shock and inconvenience suffered by him. It is submitted that the same is not a proper method. The deceased is a boy aged 13 and the accident had occurred on 11.03.2005. He was riding a bicycle when a jeep having registration No.KL-10 N 3289 hit him and he sustained injuries. He was taken to the Baby Memorial Hospital, Kozhikode and was treated there and discharged on 07.04.2005. Subsequently he was admitted on 3.5.2005 and discharged on 09.05.2005. Thereafter he was admitted at Medical College Hospital, Kozhikode on 02.07.2005 and he died on 05.07.2005.

2. The total amount of compensation claimed is

Rs.5 lakhs and the Tribunal has awarded Rs.3,25,835/-. The split up details of the amounts are given below:

Head of claim	Amount awarded in rupees
Hospitalisation expenses including the expenses of bystander and extra nourishment	7200
Transportation expenses	3000
Mental shock and inconvenience	2500
Medical expenses	92635
Loss of dependency	130000
Funeral expenses	2000
Transportation	1000
Loss of love and affection	15000

3. It is true that after granting an amount of Rs.50,000/- for pain and suffering another amount of Rs.25,000/- has been granted for mental shock and inconvenience which amounts to duplication. Even though it is contended by the learned counsel for the respondents that the same is justified we cannot agree. But as far as the compensation for pain and suffering is concerned we find that the amount of Rs.50,000/- is reasonable. But herein we find that for funeral expenses Rs.2,000/- has been granted

and for loss of love and affection Rs.15,000/- alone has been granted. Going by the decisions of the Apex court the claimants are entitled for Rs.25,000/- and Rs.1,00,000/- under these two heads. We also notice that the multiplier has been taken by considering the age of the father and not that of the deceased which is also improper. Therefore, actually the claimants are entitled for further amounts under the heads loss of love and affection, loss of dependency and funeral expenses. We therefore convert the amount of Rs.25,000/- granted towards mental shock and inconvenience suffered by the deceased and add the same towards loss of love and affection, which will make the amount under said head at Rs.40,000/- and hence no interference is called for and the appeal is dismissed without any order as to costs.

Sd/-
T.R. RAMACHANDRAN NAIR
JUDGE
Sd/-
K.P. JYOTHINDRANATH
JUDGE

shg/