

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

MACA.No. 1753 of 2010 ()

AGAINST THE AWARD IN OPMV 358/2007 of MACT VADAKARA DATED 22-01-2010
APPELLANT(S):THIRD RESPONDENT

THE ORIETNAL INSURANCE CO.LTD.
DIVISIONAL OFFICE II, CALICUT -1
REP BY THE AUTHORISED SIGNATORY
THE ORIENTAL INSURANCE CO.LTD, REGIONAL OFFICE
ERNAKULAM , METRO PALACE, ERNAKULAM NORTH
KOCHI-18.

BY ADV. SRI.A.R.GEORGE

RESPONDENT(S):

1. SHEEJA, W/O.JAYACHANDRAN, VAYALIL HOUSE
'JAYAM' ELATHOOR AMSOM & DESOM , CHETTIKULAM
PO ELATHOOR, KOZHIKODE TALUK, PIN 673 303.

2. JAYACHANDRAN S/O.RAJAN,
DO..DO..

R,R BY ADV. SMT.K.V.RESHMI

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
27-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.1753 of 2010

Dated this the 27th day of May, 2015

JUDGMENT

Ramachandran Nair, J.

The son of the respondents/claimants aged 5 years, who was a pedestrian died in a road traffic accident occurred on 17.2.2007. The Tribunal awarded a total compensation of Rs.3,61,000/- which is under challenge in the appeal filed by the insurance company.

2. We heard learned counsel for the appellant Shri A.R. George and Smt.K.V. Reshmi, learned counsel for the respondents.

3. The attack is mainly on the notional income fixed by the Tribunal. It is submitted by Shri A.R. George that instead of Rs.15,000/- which can be the maximum going by the Second Schedule, the Tribunal has fixed an amount of Rs.20,000/- annually and a multiplier of 15 has been adopted.

4. Learned counsel for the respondents, Smt. K.V. Reshmi submitted that the award does not require any modification, as the

Tribunal has adopted Rs.30,000/- annually in the light of the steep price in the financial market, standard, and cost of living, etc. Thereafter, 1/3rd was deducted for personal expenses and accordingly Rs.20,000/- has been arrived at. It is also submitted that no adequate amounts have been granted under different heads. For loss of future prospects and loss of love and affection, Rs.50,000/- has been granted by the Tribunal. Apart from the same, for expenses towards transportation Rs.1,000/-, Rs.5,000/- for funeral expenses and Rs.5,000/- for pain and suffering, have also been granted. The amount under the head loss of love and affection, going by the judgment in **Rajesh v. Rajbir Singh** (2013 (3) KLT 89), could be fixed at Rs.1 Lakh and that for funeral expenses the amount fixed by the Apex Court is Rs.25,000/- by the said judgment. Therefore, even if any adjustment need be made, it will have to be adjusted to the amount which the claimants could have obtained under other heads like funeral expenses, loss of love and affection and pain and suffering of the deceased. We are of the view that the said contention is justified.

We find that the compensation awarded is just and fair and therefore, confirming the award, the appeal is dismissed. The parties will suffer their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(K.P. JYOTHINDRANATH,, JUDGE.)

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