IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

MACA.No. 2407 of 2014 ()

AGAINST THE AWARD IN OPMV 1185/2007 ON THE FILE OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, THALASSERY DATED 04-09-2013

APPELLANTS/PETITIONERS:-:
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1. K.C.ANILKUMAR,
S/O.GOPALAN, "SAYOOJYAM", PULIKKAL THAZHA
P.O.CHIRAKKARA, THALASSERY.

2. SHANDA K..,
W/O.ANILKUMAR, "SAYOOJYAM", PULIKKAL THAZHA
P.O.CHIRAKKARA, THALASSERY.

BY ADV. SRI.V.BINOY RAM

RESPONDENTS/RESPONDENTS:-:
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1. V.P.BHASKARAN,
S/O.CHATHA, "AISWARYA", P.O.MOKERI
THALASSERY, KANNUR DISTRICT, PIN - 670 692.

2. CHANDRAN P.V.,
S/O.RAMAKRISHNAN, KALLURIPARAMBIL HOUSE, P.O.VENGAD
THALASSERY, KANNUR DISTRICT, PIN - 670 612.

3. PRADEESH P.,
"PRADEEPAM", P.O.TIRUVANGAD, THALASSERY
KANNUR DISTRICT, PIN - 670 103.

4. SHAJI P.T.,
S/O.RAGHAVAN, "BAIJU NIVAS", P.O.ERANHOLY
THALASSERY, KANNUR DISTRICT, PIN - 670 107.

5. UNITED INDIA INSURANCE CO.LTD.,
KANNUR, PIN - 670 001.

R5 BY ADV. SMT.DEEPA GEORGE
BY SRI.JOHN JOSEPH VETTIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 13-01-2015, 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.2407 of 2014

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Dated this the 13th day of January 2015

JUDGMENT

Asha, J.,

The parents have approached this Court seeking enhancement of compensation towards the death of their son who succumbed to injuries in a motor vehicle accident. The deceased was riding a motor cycle bearing registration No. KL-11X/7946 from Chirakkara to Eranholi on 13.3.2007, when he was knocked down by an autorikshaw and was immediately run over by a bus.

2. The deceased was aged 18 years and was a student doing part-time job of mechanic. Claiming that his monthly income was Rs. 3,000/-, claim petition was filed seeking compensation to the tune of Rs. 6 lakhs. The Tribunal awarded a sum of Rs. 5,13,000/-. This appeal is filed on the ground that the amount awarded under various heads are insufficient. It is submitted that the multiplier adopted was incorrect. The age of the deceased was only 18. But the Tribunal has adopted the multiplier as 13 taking the average age of the parents.

3. We heard the learned counsel for the Insurance Company also who opposed the enhancement submitting that the amount awarded on various heads are reasonable. She also pointed out that the Tribunal has taken 30% of the income towards future prospects, which cannot be granted when the deceased was a student doing only on a part-time job.

4. We find that the multiplier adopted by the Tribunal was not correct. The multiplier to be adopted is in accordance with the age of the deceased and not considering the age of the parents. When the age of the deceased was 18 years, the proper multiplier is 18 as held in the judgment of the Apex Court in ***Sarala Verma v. Delhi Transport Corporation [(2010)(2) KLT 802].***

5. Therefore, the compensation awarded towards dependency has to be recalculated on the basis of the the correct multiplier. As rightly contended by the counsel for the respondent, the Tribunal was not correct in adding 30% of the income towards future prospects. At the same time we find the claim of monthly income of the deceased at the rate of Rs. 3000/- was reasonable. As the deceased was a bachelor, 50% of the income has to be deducted towards his personal expenses.

Therefore compensation towards dependency is re-fixed at Rs.3,24,000/-(3,000x12x1/2x18). Towards love and affection the Tribunal has granted only Rs. 40,000/- to the appellants. The Tribunal awarded Rs. 20,000/- only towards funereal expenses. Going by the decision of the Apex Court reported in Rajesh v. Rajbir Singh (2013 (3) KLT 89 (SC) , we enhance the compensation towards loss of love and affection to Rs.1,00,000/- and towards funeral expenses to Rs.25,000/-.

6. We find that the amount awarded by the Tribunal under the other heads are just and reasonable and hence no modification is found necessary. Therefore, the award passed by the Tribunal is accordingly modified as follows:

Sl. No.	*Heads*	*Amt.awrded*	*Amt.modified*	*Basis*
1	Dependeny compensation	3,51,500	3,24,000/-	Rs.3,000x12x1/2x18
2	Pain and suffering	75000	75000	
3	Loss of love and affection	40000	100000	
4	Loss to estate	25000	25000	
5	Funeral expense	20000	25000	
6	Transportation/Ambulance	2000	2000	
	Total	5,13,000/-	5,51,000	

Thus the appellant will be entitled to compensation of a sum of Rs. 5,51,000/-.

7. The Tribunal has granted interest only at the rate of 8.% p.a. In the light of the judgment of the apex court in **Supe Dei (Smt.) & Ors. v. National Insurance Co. Ltd. and Anr.** [(2009)4 SCC 513], we fix the interest at the rate of 9% p.a from the date of petition.

8. The Insurance Company is directed to deposit the entire 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 allowed accordingly. No cost.

Sd/-

T.R.RAMACHANDRAN NAIR
(JUDGE)

Sd/-
P.V.ASHA
(JUDGE)

AL/-

True copy

P.A to Judge

corrected and fair copy