

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 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

MACA.No. 2005 of 2010 ()

AGAINST THE AWARD IN OPMV 2628/2005 of PRINCIPAL M.A.C.T., KOZHIKODE
DATED 01-10-2009

APPELLANT/PETITIONER:

NISHAD
D.O.B. 14-01-1991, S/O. ABDUL RASAK
RESIDING AT CHALIYARAKKAL VEEDU, KUTTIKATTOOR POST
KOZHIKODE.

BY ADVS.SRI.V.S.CHANDRASEKHARAN
SMT.LEKSHMI SWAMINATHAN

RESPONDENTS/RESPONDENTS:

1. APPU K. , S/O UNNEEN, AGED NOT KNOWN
KAVUNGAL HOUSE, CAMP ROAD, AREACODE POST
MALAPPURAM-673639.

2. THE ORIENTAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE, SEEMA BUILDING, G.H.ROAD
KOZHIKODE-673001.

R2 BY ADV. SRI.VPK.PANICKER

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 16-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.2005 OF 2010

Dated this the 16th day of July, 2015

JUDGMENT

Ramachandran Nair, J.

The appellant was a minor at the time of the accident. He is aggrieved by the inadequacy of the compensation granted by the Tribunal. As against the claim of Rs.2 lakhs, Rs. 32,750/- has been granted by the Tribunal in the following manner :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Transport to hospital	500
Damage to clothing	250
Bystander's expenses	1000
Treatment expenses	4500
Pain and suffering	17500
Disability	9000
Total	32750

2. The appellant was riding a bicycle on the date of the accident namely on 12/09/2005 at 9.30 p.m. and it was hit by a speeding jeep bearing Reg.No.KL-10-C-2396, which was coming from

the opposite direction. He fell down and sustained serious injuries and was treated in the Medical College Hospital upto 30/09/2005 (18 days).

3. Ext.C1 is the disability certificate, which shows that there is 4% disability. He was absent from the school from 19.9.2005 to 21.03.2006, going by Ext.A3 certificate. The injury sustained by him is fracture of left femur shaft. The learned counsel for the appellant submits that the compensation granted is totally inadequate. It is submitted that the multiplier adopted should have been 18 going by the judgment in *Sarla Verma v. Delhi Transport Corporation ([2010 (2) KLT 802 (SC)]*

4. The learned counsel for the Insurance Company submitted that the disability is only 4% and the appellant was only a student also.

5. After hearing the learned counsel on both sides, we recompute the compensation in the following manner :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Transport to hospital	500
Damage to clothing	250
Bystander's expenses	3500

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Loss of amenities	5000
Extra nourishment	1000
Treatment expenses	4500
Pain and suffering	25000
Disability	10800
Total	50550 (Rupees fifty thousand five hundred fifty only)

6. The amount of compensation will carry interest @ 9% per annum from the date of petition. The Insurance Company was found liable by the Tribunal. Therefore, we direct the Insurance Company to deposit the amount less the amount already deposited before the Tribunal within a period of three months from the date of receipt of a copy of this judgment.

The appeal is accordingly allowed. The parties will suffer their costs in the appeal.

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH,JUDGE

SV.