

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

MACA.No. 2278 of 2010 ()

AGAINST THE AWARD IN OPMV 233/2003 of M.A.C.T., THALASSERY
DATED 14-01-2010

APPELLANT(S):PETITIONERS

1. SHYNI ANTONY & ANOTHER
KARIMPANAKKAL HOUSE, TABORE POST, CHERUPUZHA
TALIPARAMBA TALUK.

2. ASHIKKY, D/O.ANTONY 7 YEARS, (MINOR)
REP BY HER MOTHER SHYNI ANTONY, KARIMPANAKKAL HOUSE
TABORE POST, CHERUPUZHA, TALIPARAMBA TALUK.

BY ADVS.SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH
SMT.R.LEELA
SMT.N.K.SHEEBA

RESPONDENT(S):RESPONDENTS

1. BABU JOSEPH & ANOTHER
TABORE PO, CHERUPUZHYA VIAL, TALIPARAMBA TALUK
KANNUR 670 511.(DELETED)

2. THE BRANCH MANAGER
ORIENTAL INSURANCE CO.LTD, MARINA SHOPPING COMPLEX
TALIPARAMBA PO 670 141.

(NAME OF R1 DELETED FROM THE PARTY ARRAY AS PER ORDER IN IA 3345/2014
DT.19.11.2014)

R,R2 BY ADV. SRI.A.R.GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
01-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.2278 of 2010

Dated this the 1st day of June, 2015

JUDGMENT

Jyothindranath, J.

This is an appeal preferred against the award dated 14.1.2010 in O.P.(MV) No.233/2003 on the file of th Motor Accidents Claims Tribunal, Thalassery. The original petitioner before the Tribunal was the husband of the first appellant herein. The second appellant is the son of the deceased.

2. The case of the appellants is that on22.12.2002 at about 3.p.m the deceased met with a motor vehicle accident and in the said accident he sustained very severe head injuries. A claim petition was filed under Section 166 of the Motor Vehicles Act by the deceased. Pending consideration of the same, the original petitioner died. The appellants herein are impleaded as supplemental petitioners.

3. It is the submission of the learned counsel for the appellants that the deceased sustained very severe head injuries and actually as the

after-effect of the said injuries the original petitioner succumbed to death at the age of 36. It is the further submission that the Tribunal only awarded an amount of Rs.51,700/- towards compensation. It is further submitted before us that the amount awarded is inadequate and the intervention of this Court is warranted and enhancement is to be given.

4. Ext.A2 is the wound certificate of the deceased. It is issued from A.K.G. Memorial Hospital, Kannur. C.T. Scan is seen taken and it is revealed that there is a depressed fracture of skull and there is also hospitalisation for 10 days from 22.12.2002 to 3.1.2003. It is also the case of the appellants that he was again admitted for three days from 7.3.2003 to 9.3.2003, in Deepa Hospital, Karthikapuram, which is a local hospital. Ext.A3 wound certificate issued from the said hospital reveals that there is nausea and vomiting, a symptom that is ordinarily exhibited when there is a head injury. The appellants produced medical bills also.

5. Thus, after considering the medical records before us and also keeping in mind the symptoms shown at the second time of admission in the hospital, we refix the amount of compensation as follows:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal</i>	<i>Modified award passed by this Court</i>
Bystander's expenses	1300	2600
Medical expenses	25400	25400
Pain and suffering	16000	35000
Transport to hospital	2000	3000
Extra nourishment and review	5000	7000
Miscellaneous expenses	2000	5000
Total		78000

(Rupees Seventy-eight thousand only)

The entire amount of compensation will carry interest at the rate of 9% per annum from the date of petition and the insurance company is directed to deposit the amount of compensation less the amount already deposited before the Tribunal, within a period of three months. The amount will be released to the first appellant which shall be utilised for the benefit of the second appellant also.

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

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(K.P. JYOTHINDRANATH,, JUDGE.)

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