

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. 2356 of 2010 ()

AGAINST THE AWARD IN OPMV 877/2007 of M.A.C.T OTTAPPALAM DATED 02-07-2010

APPELLANT(S):PETITIONER

FASANA RAHMATH (MINOR)
D/O.MOHAMMED, R/A.MANNAYAMKODE, PATTAMBI
PALAKKAD DIST(MINOR APPELLANT REPRESENTED
HEREIN BY HER GUARDIAN FATHER MOHAMMED, S/O.HAMZA
PADINJAKARA, RESIDING AT MANNAYAMKODE, PATTAMBI
PALAKKAD DISTRICT)

BY ADVS.SRI.V.CHITAMBARESH (SR.)
SRI.T.C.SURESH MENON
SRI.JIBU P THOMAS
SRI.P.S.APPU
SRI.A.R.NIMOD
SRI.C.A.ANOOP

RESPONDENT(S):RESPONDENTS

1. SUDHEER
MUZHAYAMTODI VEEDU, MANNENGODE, KOPPAM
PATTAMBI, PALAKKAD

2. THE MANAGER, AUP SCHOOL,MANNENGODE
KOPPAM, PATTAMI, PALAKKAD DISTRCIT

3. THE ORIENTAL INSURANCE COMPANY LIMITED
PRANAVAM BUILDINGS, MALE PATTAMBI, PALAKKAD DIST

R,R3 BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)

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

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

M.A.C.A.No.2356 of 2010

Dated this the 21st day of May, 2015

JUDGMENT

Ramachandran Nair, J.

A minor girl aged 7 years, was injured in an accident which occurred on 9.3.2007 at 4.30 p.m. She was walking through a public road and when she reached near a place called Mannengode, the offending vehicle, viz. a bus bearing Reg. No.KL-9 M/3639 hit the girl. She was taken to Al-Shifa Hospital, Perinthalmanna and was treated as inpatient for 15 days.

2. We are only on the question of quantum of compensation. As against a total claim of Rs.2 Lakhs, the Tribunal granted only a sum of Rs.73,200/-.

The injuries sustained by the appellant are the following:

“(1) Abrasion face, (2) Lacerated wound right ankle, (3) Fracture tibia right, (4) Fracture calcaneum right, (5) Fracture nasal bone, (6) Sub-conjunctival laceration left eye; and (7) blunt injuries.”

The appellant was treated from 9.3.2007 to 24.3.2007 and from 25.7.2007 to 30.7.2007 in the same hospital as inpatient. It is also seen that the diagnosis shows that she had acute abdomen colics and suspected pancreatitis. Ext.A9 series are the discharge summary cards issued from the hospital. Initially nasal bone fracture alone was noticed and Ext.A10 will show that sonography of abdomen was done.

3. We find from the award that amounts have been fixed by the Tribunal in the following manner:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal</i>
Medical expenses	42700
Bystander's expenses	3000
Transportation expenses	1000
Extra nourishment	3000
Damage to clothing	500
Pain and suffering	15000
Compensation for injuries	3000
Loss of amenities and convenience	5000
Total	73200

4. Heard both sides.

5. Learned counsel for the appellant submitted that the amount awarded towards pain and suffering, loss of amenities, bystander's expenses, transportation expenses, extra nourishment, etc. require

modification. It is also submitted that the injured being a minor girl, amounts should have been granted for loss of school days.

6. Learned counsel for the insurance company submitted that proper compensation has been granted. After considering the fact that she had suffered fracture tibia, nasal bone, fracture calcaneum, head injuries as well as other bodily injuries, we are of the view that for pain and suffering, an amount of Rs.35,000/- can be granted. She had two spells of inpatient treatment and therefore much pain and difficulties would have been suffered by her. We also enhance the bystander's expenses at the rate of Rs.250/- per day for 15 days and the total amount will be Rs.3,750/- and for transportation expenses, an amount of Rs.3,000/- is granted. For extra nourishment also we grant a sum of Rs.5,000/-. Even though no permanent disability has been caused, evidently she had lost her school days also. Therefore, for loss of amenities and convenience, etc. an amount of Rs.10,000/- is granted.

The total compensation will be recomputed as follows:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal</i>	<i>Modified award passed by this Court</i>
Medical expenses	42700	42700
Bystander's expenses	3000	3750
Transportation expenses	1000	3000
Extra nourishment	3000	5000
Damage to clothing	500	500
Pain and suffering	15000	35000
Compensation for injuries	3000	3000
Loss of amenities and convenience	5000	10000
Total	73200	102950

(Rupees One Lakh Two thousand Nine hundred and fifty only)

The enhanced amount of compensation will carry interest at 9% per annum from the date of petition and the insurance company is directed to deposit the entire amount of compensation less the amount already deposited, within a period of three months.

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

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(K.P. JYOTHINDRANATH,, JUDGE.)

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