

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

MACA.No. 3084 of 2009 (B)

AGAINST THE AWARD IN OPMV 1024/2003 of M.A.C.T.,KOZHIKODE
DATED 10-07-2008

APPELLANT(S)/PETITIONERS:

1. ABDUL AZEEZ K.A., AGED 48 YEARS,
S/O. AHAMED KUTTY.

2. AYISHA K.,AGED 39 YEARS,
W/O. ABDUL AZEEZ K.A.

3. SABEER, S/O.ABDUL AZEEZ K.A.
AGED 21 TEARS

4. HARSHAD, S/O.ABDUL AZEEZ K.A.,
(MINOR) AGED 13 YEARS (DATE OF BIRTH 14-8-94)

5. FARSHANA, D/O. ABDUL AZEEZ.K.A.,
(MINOR)AGED 13 YEARS, DATE OF BIRTH:01-01-1999
PETITIONERS NO.4 & 5 REPRESENTED BY FATHER
GUARDIAN 1ST PETITIONER. ALL RESIDING AT
ERUMBHIDAMKANDY HOUSE, P.O.KALLURUTTY, VIA THIRUVAMPAD

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENT(S)/RESPONDENTS:

*1. ABDUL MAJEED V.K., S/O. MAMMED K.,
VELLARAMKUNNUMMAL HOUSE, P.O.KARANTHOOR
CALICUT - 673571.(DELETED)

2. UNITED INDIA INSURANCE CO.LTD
DIVISIONAL OFFICE, NO.1, P.B.NO.533
WHITE LINES, KALLAI ROAD, CALICUT 673002.

(1ST RESPONDENT IS DELETED FROM THE PARTY AT THE RISK OF THE
APPELLANT VIDE ORDER DT.18.3.15 IN I.A NO.964/2015)

R,R2 BY ADV. SRI.JOHN JOSEPH VETTIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

T.R.RAMACHANDRAN NAIR & P.V ASHA, JJ.

M.A.C.A No.3084 of 2009

Dated this the 6th day of April, 2015

JUDGMENT

Asha, J.

Appellants, who are parents and siblings of deceased Aneesh, have filed this appeal seeking enhancement of compensation. On 24.10.2002, the deceased was riding a bicycle from school to his residence, when he was knocked down by a bus causing fatal injuries to him. He succumbed to the injuries, while in the hospital, on the same day.

2. The claim petition was filed seeking compensation of Rs.3 lakhs. The Tribunal awarded a sum of Rs.1,35,000/-.

3. We heard the learned counsel appearing on either side. The learned counsel for the Insurance Company opposed the claim for enhancement.

4. We find that the Tribunal has awarded a sum of Rs.1,35,000/-, observing that for the death of a child aged 12 years, it is the just and reasonable compensation and multiplier system need not be adopted. At the same time, it is also said that the notional annual income is to be reckoned as Rs.15,000/-.

5. The proper multiplier to be adopted in the case of the deceased who was aged 12 years at the time of the accident is 15, even as per the schedule II of Motor Vehicles Act. Therefore, reckoning the notional annual income as Rs.15,000/-, the compensation towards loss of dependency will be Rs.15,000 X 15, which will come to Rs.2,25,000/-. The Tribunal has not awarded any amount towards pain and suffering, funeral expenses or loss of love and affection. The parents have lost their child at the early age of 12 years. The siblings lost the affection and care of their brother unexpectedly and untimely. Therefore we award a sum of Rs.1,00,000/- towards loss of love and affection, Rs.25,000/- towards funeral expenses and a sum of Rs.10,000/- towards pain and suffering. A sum of Rs.2,000/- is awarded for transportation as the child was taken to the hospital in view of the injuries sustained by him in the accident. The award passed by the Tribunal is accordingly modified as follows:

<i>Sl.No.</i>	<i>Head of claims</i>	<i>Amt.awarded</i>
1	Loss of dependency	Rs. 2,25,000.00
2	Pain and suffering	Rs. 10,000.00
3	Funeral expenses	Rs. 25,000.00
4	Loss of love and affection	Rs. 1,00,000.00

<i>Sl.No.</i>	<i>Head of claims</i>	<i>Amt.awarded</i>
5	Transportation expenses	Rs. 2,000.00
	Total	Rs. 3,62,000.00

(Rupees Three lakhs sixty two thousand only)

The appellants will be entitled to a total compensation of Rs.3,62,000/- (Rupees Three lakhs sixty two thousand only). The enhanced compensation will carry interest @ 9% per annum from the date of petition. The Insurance Company is directed to deposit the entire amount of compensation, less the amount already paid, within 3 months from the date of receipt of a copy of this judgment and on such deposit being made, the parents can withdraw the amount. The Court Fee in deficit towards the total awarded amount shall be recovered by the Tribunal before disbursement.

The appeal is allowed accordingly. The parties will bear their respective costs in this appeal.

Sd/-
T.R.RAMACHANDRAN NAIR
Judge
Sd/-
P.VASHA
Judge

rtr/

/true copy/

P.S to Judge