

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. 3090 of 2008 ()

AGAINST THE AWARD IN OPMV 2641/2003 of M.A.C.T.,KOZHIKODE DATED
08-04-2008

APPELLANTS/PETITIONERS IN OP (MV) :

1. KUNHI AMMED, S/O HUSSAIN
AGED 51 YEARS, PADIKKAL HOUSE, THAMARASSERY POST
KOZHIKODE.

2. NAFEESA, W/O.KUNHIAMMED,
PADIKKAL HOUSE, THAMARASSERY POST, KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS/RESPONDENTS IN OP (MV) :

1. M.P.KUNHI RAMAN
POOLATHARA HOUSE, KUTTIADI POST, BADAGARA
KOZHIKODE.

2. THE NATIONAL INSURANCE CO.LTD.,
KOYA'S SHOPPING COMPLEX, NARANGAPURAM, P.B.NO.8
THALASSERY, KANNUR DISTRICT.

3. KUNHIMOIDY, S/O.IBRAHIM,
MEETHELE KIZHAKKEDATH HOUSE, CHAGNAROTH,
PERUVANNAMUZHI
KOYILANDY TALUK, KOZHIKODE. (DELETED)

* RESPONDENT NO.3 IS DELETED FROM THE PARTY ARRAY AT THE RISK
OF THE APPELLANTS AS PER ORDER DATED 3.3.15 IN I.A.NO.748/2015

R2 BY ADV. SRI.LAL 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.3090 OF 2008

Dated this the 1st day of June, 2015

JUDGMENT

Ramachandran Nair, J.

Appellant No.1 is no more and appellant No.2, the mother is aggrieved by the inadequacy of the compensation granted consequent on the death of her son at the age of 13, a school going child. While returning from the school on the fateful day in a jeep, he met with an accident when the jeep hit a tree on the way side. He succumbed to the injuries on the same day.

2. The learned counsel for the appellant submitted that the Tribunal without adopting the multiplier method fixed a lump sum amount of Rs.70,000/- as dependency compensation. It is submitted that the said method is faulty. It is also submitted that the amounts awarded towards pain and suffering, funeral expenses and loss of love and affection are too low.

3. The total compensation granted is Rs.90,000/-. We have

gone through the award. The Tribunal by relying upon the judgment in **Oriental Insurance Company v. Syed Ibrahim and others** [2007 (4) KLT 319 (SC)] was of the view that without applying the multiplier method, amount can be arrived at. But in the light of the judgment in **Sarla Verma v. Delhi Transport Corporation (2010(2) KLT 802 (SC)**, we will have to adopt multiplier method for fixing the compensation.

4. Then the next aspect is what should be the reasonable multiplicand. The learned counsel for the appellant relying upon the judgment of the Apex Court in **Kishan Gopal and another v. Lala and others** (2014 (1) SCC 244) submitted that Rs.30,000/- if adopted will be a reasonable amount. It is pointed out by the learned counsel for the Insurance Company that a reading of the judgment will show that in that case there was evidence to show that the deceased boy was helping his father in the agricultural operations. We are of the view that atleast Rs.2000/- can be adopted as the monthly income for fixing the compensation and adopting the multiplier of 15, the amount will be

Rs. 3,60,000/- (24,000 x 15) For loss of love and affection, we grant a sum of Rs.1,00,000/- and for funeral expenses, we grant Rs.25,000/- and for pain and suffering, we grant Rs.10,000/-. Rs. 1,000/- is granted towards transportation. Therefore, the total compensation will be Rs.4,96,000/-. The enhanced compensation will carry interest @ 9% per annum from the date of petition (1.11.2003). The Insurance Company shall deposit the amount within three months and on depositing the amount by the Insurance Company, appellant No.2 is permitted to withdraw the amount also. The parties will suffer their costs in the appeal.

The appeal is accordingly allowed.

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH,JUDGE

SV.