

**(2015) 04 KL CK 0074**  
**In the High Court Of Kerala**  
**Case No : M.A.C.A. No. 493 of 2012**

Nasurudin M. and Others

APPELLANT

Vs

Siby Kuriakose and Others

RESPONDENT

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**Date of Decision :** 10-04-2015

**Acts Referred:**

**Citation :** (2015) 04 KL CK 0074

**Hon'ble Judges :** T.R. Ramachandran Nair, J; Bhaskaran Pillai Sudheendra Kumar, J

**Bench :** Division Bench

**Advocate :** Jagadeesh Lakshman and S. Prasanth, for the Appellant

**Final Decision :** Allowed

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## Judgement

T.R. Ramachandran Nair, J—This appeal is filed by the parents of a boy who died in an accident on 27/05/2008 at about 3.50 p.m.. He was travelling on a bicycle from Puthen Pallikkunam to Marian Centre in Palai and when he reached at R.V. junction, the offending vehicle a bus bearing Reg. No. KL-5/Q 1422, which was coming through public road hit the bicycle. He fell and sustained grievous injuries and on the way to the Medical College Hospital, Kottayam, he died. A total amount of Rs. 94,000/- was awarded as compensation by the Tribunal.

2. The learned counsel for the appellants submits that no amount has been granted towards loss of dependency. We find from the award especially in paragraph 5 that the Tribunal has granted amounts towards pain and suffering (Rs. 25,000/-), loss of estate (Rs. 10000/-), loss of love and affection (Rs. 40,000/-), funeral expenses (Rs. 15,000/-), medical expenses (Rs. 2,000/-), damage to clothing (Rs. 1,000/-) and for transportation Rs. 1000/- has been granted.

3. The learned counsel for the appellants submits that in the light of the decision of the Apex Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, (2009) ACJ 1298 : AIR 2009 SC 3104 : (2009) CLT

1055 : (2009) 6 JT 495 : (2009) 6 SCALE 129 : (2009) 6 SCC 121 : (2009) 5 SCR 1098 : (2009) 5 UJ 2280 : (2009) AIRSCW 4992 : (2009) 3 Supreme 487 , multiplier method had to be taken to award loss of dependency. According to the learned counsel for the appellants, as far as the income of child claimants are concerned, the judgment of the Apex Court in Kishan Gopal and Another Vs. Lala and Others, (2013) 3 ACC 878 : (2013) ACJ 2594 : (2013) 9 AD 193 : (2013) 5 CTC 212 : (2013) 11 JT 563 : (2014) 1 PLR 276 : (2013) 4 RCR(Civil) 276 : (2013) 10 SCALE 580 : (2014) 1 SCC 244 , will show that the Apex Court in a case of a deceased boy aged 10 has adopted the income as Rs. 30,000/- per annum. The learned counsel for the Insurance Company submitted that normally amount of Rs. 15,000/-annually is being taken and in terms of the second schedule 15 is the multiplier also.

4. We have considered the rival submissions. True that the Apex Court in the above judgment, relied upon by the learned counsel for the appellant, has assessed the notional income of the deceased at Rs. 30,000/- per annum. The said finding was rendered in the light of the evidence that he was assisting his father in his agricultural work. Herein the boy was aged 11. There is no evidence of any other efforts taken by him to contribute to the income of the family. But in the said judgment of the Supreme Court one of the aspects pointed out is the falling rupee value and other related aspects. In this case, the accident had occurred in the year 2008. Therefore, we find it proper to adopt Rs. 24,000/- as the yearly income for assessing compensation. As far as loss of love and affection is concerned, the appellants are entitled for Rs. 1 lakh in the light of the judgment of the Apex Court in Rajesh and Others Vs. Rajbir Singh and Others, (2013) 2 ACC 841 : (2013) ACJ 1403 : (2013) 3 CTC 883 : (2013) 8 JT 288 : (2014) 173 PLR 779 : (2013) 3 RCR(Civil) 170 : (2013) 6 SCALE 563 : (2013) 9 SCC 54 : (2014) 1 SCC(L&S) 149 . For funeral expenses, we grant Rs. 25,000/-.

5. Accordingly, we recompute the compensation in the following manner :

6. The enhanced compensation will carry interest @ 9% per annum. The Insurance Company shall deposit the amount less the amount already deposited, if any, within a period of three months from the date of receipt of a copy of this judgment.

The appeal is accordingly allowed. There will be no order as to costs in this appeal.