

(2012) 02 KL CK 0123

In the High Court Of Kerala

Case No : MACA No. 952 of 2006 (A) and OP (MV) 454 of 2000

P.P. Joseph, Chinnamma Joseph and Aiby

APPELLANT

Vs

Pathinavalasa Sankara Rao, Mila Syanal Bai and The National Insurance Co.

RESPONDENT

Date of Decision : 14-02-2012

Acts Referred:

Citation : (2012) 02 KL CK 0123

Hon'ble Judges : Pius C. Kuriakose, J;A.V. Ramakrishna Pillai, J

Bench : Division Bench

Advocate : Philip T. Varghese and Sri. Thomas T. Varghese, for the Appellant; P. Jayasankar for R3, for the Respondent

Final Decision : Allowed

Judgement

Pius C. Kuriakose, J

1. The legal heirs of a young man aged 24 who lost his life in a road traffic accident which occurred in the State of Andhra Pradesh being his parents and only sister are aggrieved by the quantum of compensation awarded to them by the Motor Accidents Claims Tribunal. In the memorandum of appeal it is urged that for calculating the dependency compensation the Tribunal awarded a very low multiplicand of Rs. 1,750/-. Even though the claim was that the deceased was conducting a Pranik Healing Centre and drawing Rs. 5,000/- as monthly income it is urged that compensation awarded under various other heads such as transportation, pain and sufferings, funeral expenses etc. are inadequate. It is also urged that towards loss of dependency adequate compensation was not awarded.

2. We have considered the submissions addressed before us by the learned counsel for the appellants and also by Sri. P. Jayasankar, the learned Standing Counsel for the Insurance Company. We have carefully gone through the award of the Tribunal. We are of the view that the Tribunal did not award proper

compensation to the appellants. According to us, the notional income of Rs. 1,750/- adopted by the learned Tribunal is too low. There was every justification for adopting the notional income as Rs. 2,750/-. Since the proper multiplier is seen adopted and the deductions are correctly made when dependency compensation is re-computed adopting the multiplicand of Rs. 2,750/- the dependency compensation will stand enhanced by Rs. 64,000/-. We award to the appellant Rs. 64,000/- more towards dependency compensation. The accident occurred in Andhra Pradesh and the body was transported in Andhra Pradesh and also over to the State of Kerala. We are sure that towards transportation expenses very large amounts were expended. However as claim is limited to Rs. 4,000/- and Rs. 3,000/- is already awarded, we award to the appellant Rs. 1,000/- more towards transportation charges. We find that the compensation awarded by the Tribunal towards pain and sufferings is inadequate. We award to the appellants Rs. 5,000/- more towards pain and sufferings. We also feel that the compensation awarded to the parents for love and affection on account of the death of their only son is inadequate. We award to the appellants Rs. 5,000/- more as compensation for love and affection. We are also equally sure that the compensation awarded towards funeral expenses which is only Rs. 2,000/- is inadequate. We award to the appellants Rs. 3,000/- more towards funeral expenses. So also we feel that towards loss of estate the appellant should have been awarded Rs. 3,000/- more and we award to the appellant Rs. 3,000/- more towards loss of estate. Thus over and above what is awarded by the Tribunal the appellants become eligible for a further amount of Rs. 81,000/- which we award to the appellants. This amount as well as the amount awarded by the Tribunal will carry interest at the rate of 7% per annum. The appeal is allowed. No costs.