

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

MACA.No. 324 of 2012 ()

AGAINST THE AWARD IN OPMV 1384/2010 of M.A.C.T., KOZHIKODE DATED
18-08-2011

APPELLANTS/PETITIONERS:

1. KOYA

S/O.SAIDALAVI, POTTAYIL HOUSE, (NAKKOTTIL)
P.O. KANNAMVETTIKAVU, PULIKKAL (VIA), MALAPPURAM.

2. KHADEEJA,

W/O.KOYA, POTTAYIL HOUSE, (NAKKOTTIL)
P.O. KANNAMVETTIKAVU, PULIKKAL (VIA), MALAPPURAM.

3. ANSAR

D/O.KOYA, POTTAYIL HOUSE, (NAKKOTTIL)
P.O. KANNAMVETTIKAVU, PULIKKAL (VIA), MALAPPURAM.

4. JAUHARA,

D/O.KOYA, POTTAYIL HOUSE, (NAKKOTTIL)
P.O. KANNAMVETTIKAVU, PULIKKAL (VIA), MALAPPURAM.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS/RESPONDENTS:

1. DINU

S/O.MOHANAN, PUNNATH HOUSE, MARATH THAZHAM
P.O.RAMANATTUKARA, KOZHIKODE-673633.

2. JITHESH.T.

S/O.LOHITHAKSHAN, KIZHAKKETHODI HOUSE, P.O.CHELAMBRA
MALAPPURAM-673 634.

3. THE ORIENTAL INSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE, JYOTHI SUPER BAZAR
THODUPUZHA POST., PIN-685584.

R3 BY ADV. SRI.VPK.PANICKER

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 13-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A.No.324 of 2012

Dated this the 13th day of March, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by the legal heirs of the deceased, seeking enhancement in compensation consequent on the death of one Shri Ansab. As against the claim of Rs.6 lakhs, the Tribunal awarded a sum of Rs.3,35,000/-. The essential details for considering the claim for enhancement are the following:

2. The deceased was aged 19 years at the time of accident. It was claimed that he was working as a Mechanic and was earning a sum of Rs.4,000/- per month. It is also submitted that he died after 20 days of treatment in the Medical College Hospital, Kozhikode. The accident occurred on 24.3.2010 while he was riding a motor cycle bearing Reg. No.KL-27-4030 from Cheruvannur to Ramanattukara. The offending vehicle is a lorry bearing Reg. No.KL-11-AE 6810.

3. Learned counsel for the insurance company submitted that the monthly income claimed is excessive and what is granted as total compensation by the Tribunal is reasonable.

4. What we find from the award is that the deceased claimed to be a Mobile Mechanic in M/s. Sins Mobiles, Ramanattukara. According to us, the amount claimed as monthly income, viz. Rs.4,000/- is only reasonable. As the deceased was aged 19 years only, 18 will be the multiplier. Therefore, the compensation for loss of dependency will come to Rs.4,32,000 (Rs.4000/- x 12 x 18 x 50/100). We also find that the amount awarded towards compensation for funeral expenses, loss of estate and loss of love and affection are too inadequate, which require reasonable enhancement.

Accordingly, we recompute the total compensation in the following manner:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Modified award passed by this Court (Rs)</i>
Transport to hospital	2000	2000
Damage to clothing	1000	1000
Funeral expenses	3000	25000
Treatment expenses	6000	6000

<i>Head of claim</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Modified award passed by this Court (Rs)</i>
Pain and suffering	15000	20000
Loss of estate	10000	30000
Loss of love and affection	10000	100000
Loss of dependency	288000	432000
Total		616000

(Rupees Six Lakhs and Sixteen thousand 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 before the Tribunal, within a period of three months. On making such deposit, the claimants will be entitled to withdraw the amount in tune with the ratio fixed by the Tribunal.

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

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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