

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH**

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

MACA.No. 1010 of 2006 ()

**AGAINST THE AWARD IN OP(MV) 3104/2001 OF MOTOR ACCIDENTS CLAIMS
TRIBUNAL,THRISSUR DATED 09-08-2005**

APPELLANTS/PETITIONER::

- 1. JACOB C.O., AGED 65 YEARS,
S/O. OUSEPH, CHIRIYANKANDATH HOUSE, P.O. PAVARATTY
TRISSUR DISTRICT.**
- 2. ALICE LONAPPAN, AGED 40 YEARS,
D/O. JACOB C.O., CHIRIYANKANDATH HOUSE, P.O. PAVARATTY
TRISSUR DISTRICT.**
- 3. THRESSIA ANTONY, AGED 39 YEARS,
D/O. JACOB C.O., CHIRIYANKANDATH HOUSE, P.O. PAVARATTY
TRISSUR DISTRICT.**
- 4. REETHA DAVID, AGED 35 YEARS,
D/O. JACOB C.O., CHIRIYANKANDATH HOUSE, P.O. PAVARATTY
TRISSUR DISTRICT.**
- 5. JOSE C.J., AGED 33 YEARS,
S/O. JACOB C.O., CHIRIYANKANDATH HOUSE, P.O. PAVARATTY
TRISSUR DISTRICT.**
- 6. BIJUMON C.J., AGED 23 YEARS,
S/O. JACOB C.O., CHIRIYANKANDATH HOUSE, P.O. PAVARATTY
TRISSUR DISTRICT.**

**BY ADVS.SRI.M.V.THAMBAN
SRI.SREEKANTH.K.R**

MACA.No. 1010 of 2006

RESPONDENTS/RESPONDENTS::

1. DAVIS C.J., S/O. JACOB C.O.,
CHIRIYANKANDATH HOUSE, P.O. PAVARATTY
TRISSUR DISTRICT.
2. VARGHESE C.D., S/O. JACOB C.O.,
CHIRIYANKANDATH HOUSE, P.O. PAVARATTY
TRISSUR DISTRICT.
3. THE NEW INDIA ASSURANCE CO. LTD.,
ANUGRAHA BUILDINGS, WADAKKANCHERY ROAD, KUNNAMKULAM
TRISSUR DISTRICT.

R3 BY ADV. SMT.RAJI T.BHASKAR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
23-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

shg/

T.R. RAMACHANDRAN NAIR & K.P. JYOTHINDRANATH, JJ.

M.A.C.A.No.1010 of 2006

Dated this the 23rd day of June, 2015

J U D G M E N T

Ramachandran Nair, J.

This appeal, at the instance of the appellants is for enhancement of compensation consequent on the death of the wife of appellant No.1, being the mother of appellants 2 to 6. She was involved in an accident occurred on 22.8.2001 while she was travelling at about 10.30 a.m. as a pillion rider on the motorcycle bearing registration No.KL8-E-7439 driven by her son. The motorcycle hit against the back side of a car bearing registration No.KEH 1083. She died in Amala Cancer Hospital, Thrissur while undergoing treatment on 27.8.2001.

2. Since we are only concerned with the quantum of compensation, we have to assess the loss of services to the family of the deceased. What is awarded by the Tribunal is at the rate of Rs.1,500/- per month and after deducting 1/3rd for personal expenses, the contribution has been arrived at.

3. It is well known that as far as housewives their services will have to be quantified properly. They are looking after the various duties of the household, and caring the members of the family including the husband and children. Therefore, now as the family is deprived of the services of the mother, as far as appellants 2 to 6 are concerned and as far as appellant No.1 is concerned he has lost care and concern of the wife. According to us, Rs.3,000/- can be calculated as notional income and 1/3rd can be deducted for personal expenses. The Tribunal has awarded Rs.5,000/- towards funeral expenses, which we enhance to Rs.20,000/- and for loss of estate Rs.10,000/- is granted, which we confirm. As far as loss of consortium is concerned, we award Rs.30,000/- and for loss of love and affection, we award Rs.50,000/-. As regards other heads the Tribunal has granted amounts at different rates. Therefore, we re-fix the compensation as shown below:

Head of claim	Amount awarded in Rs.
Transportation	1000
Extra nourishment	1000
Damages to clothing	500
Medical expenses	10500
Bystander's expenses	1000
Funeral expenses	20000
Pain and suffering	15000
Loss of estate	10000
Loss of love and affection	50000
Loss of service	216000
Loss of consortium	30000
Total	3,55,000 (Rupees three lakhs fifty five thousand only)

The enhanced compensation will carry interest at the rate of 9% from the date of petition till realisation.

The insurer of the vehicle has been found liable, who is the third respondent Insurance Company, and we uphold the said finding. There will be a direction to the Insurance Company to deposit the amount of compensation, less the amount already deposited, before the Tribunal within a period of three months along with interest and we permit

the claimants to withdraw the amount when the amount is deposited by the Insurance Company. 50% of the enhanced amount is awarded in favour of appellant No.1 along with interest and the remaining amount will be shared equally by appellants 2 to 6.

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

Sd/-

T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-

K.P. JYOTHINDRANATH
JUDGE

//True copy//

P.A. TO JUDGE

shg/