

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

MACA.No. 669 of 2012 ()

AGAINST THE AWARD IN OPMV 1615/2006 of ADDL.MACT, ALAPPUZHA DATED 03-03-2011
APPELLANT(S):PETITIONERS

1. FATHIMA BEEVI, AGED 51 YEARS
W/O LATE MUHAMMED IRBRAHIM
FATHIMA MANZIL PLAMPARAMBIL MUNICIPAL OFFICE
WARD ALAPPUZHA DISTRICT
2. SHANAVAS, AGED 32 YEARS
S/O LATE MUHAMMED IBRAHIM
FATHIMA MANZIL PALAMPARAMBIL MUNICIPAL OFFICE WARD
ALAPPUZHA, ALAPPUZHA DISTRICT
3. SAJEER, AGED 29 YEARS
S/O LATE MUHAMMED IBRAHIM
FATHIMA MANZIL PALAMPARAMBIL MUNICIPAL OFFICE WARD
ALAPPUZHA, ALAPPUZHA DISTRICT
4. SHAJAHAN, AGED 27 YEARS
S/O LATE MUHAMMED IBRAHIM
FATHIMA MANZIL PALAMPARAMBIL MUNICIPAL OFFICE WARD
ALAPPUZHA, ALAPPUZHA DISTRICT
5. HAJIRA BEEVI, AGED 75 YEARS
M/O LATE MUHAMMED IBRAHIM
FATHIMA MANZIL PALAMPARAMBIL MUNICIPAL OFFICE WARD
ALAPPUZHA, ALAPPUZHA DISTRICT

BY ADV. SRI.SIRAJ KAROLY

RESPONDENT(S):RESPONDENTS

1. SAJEER H @ SAFEER, S/O. HASSAN KOYTA, THALKAVU PURAYIDOM,
ALISSERY WARD, ALAPPUZHA, P.O. ALAPPUZHA 688001
2. THE NEW INDIA ASSURANCE CO. LTD., ALAPPUZHA BRANCH,
REP. BY ITS MANAGER, P.O. ALAPPUZHA 688001

R2 BY SRI.A.A.ZIYAD RAHMAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.669 of 2012

Dated this the 25th day of February, 2015

JUDGMENT

Asha, J.

The legal heirs of the deceased Muhammed Ibrahim who met with a motor vehicle accident on 5.6.2006, are the appellants. The deceased sustained very serious injuries and was taken to Medical College Hospital, Alappuzha where he succumbed to the injuries on 7.6.2006. The Tribunal awarded a sum of Rs.2,96,500/- as total compensation. This appeal is filed seeking enhancement of compensation.

2. We heard learned counsel appearing on either side. Learned counsel for the insurance company opposed the claim for enhancement.

3. The deceased was working as Manager in CRP and Co., Punnapra and it was claimed that he was getting a monthly income of Rs.8,000/-. Learned counsel for the insurance company submits that

the claim regarding monthly income was on a higher side. The Tribunal reckoned the monthly income at the rate of Rs.3,000/-. The deceased was aged 51. The proper multiplier adopted is 11. Having regard to the wage structure prevailing at the relevant time, we are of the view that a sum of Rs.6,000/- can be fixed as the monthly income. Therefore, the compensation for loss of dependency will come to Rs.5,94,000/- ($\text{Rs.}6000 \times 12 \times 11 \times \frac{3}{4}$). The Tribunal has granted only a sum of Rs.2,000/- towards funeral expenses, Rs.10,000/- towards loss of love and affection and no amount is awarded towards loss of consortium and loss of estate. In the light of the judgment of the Apex Court in **Rajesh v. Rajbir Singh** (2013 (3) KLT 89 - SC), we award a sum of Rs.25,000/- towards funeral expenses, Rs.1 Lakh each towards loss of love and affection and loss of consortium and Rs.30,000/- towards loss of estate. We find that the deceased succumbed to the injuries after being hospitalised for a period of two days. Therefore we award a sum of Rs.1,500/- towards transportation charges.

Accordingly, the total compensation is refixed 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>
Loss of earnings (Loss of dependency)	264000	594000
Damage to clothing	500	500
Funeral expenses	2000	25000
Pain and suffering	20000	20000
Transport to hospital		1500
Loss of love and affection	10000	100000
Loss of consortium		100000
Loss of estate		30000
Total		871000

(Rupees Eight lakhs and seventy-one thousand only)

The enhanced amount will carry interest at the rate of 9% per annum from the date of petition. Out of the same, the first appellant is permitted to withdraw Rs.4 lakhs and appellants 2 to 5 shall be allowed to withdraw the balance amount, as and when the insurance company deposits the same. There will be a direction to the insurance

company to deposit the entire amount of compensation, less the amount already deposited before the Tribunal, within three months.

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

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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