

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

MACA.No. 1216 of 2006 ()

AGAINST THE AWARD IN OPMV 588/2000 of MACT, IRINJALAKUDA DATED
06-09-2005

APPELLANTS/ADD.PETITIONERS 2 to 5:

1. DEVU, W/O LATE KUMARAN
KONAKKAMPILLY HOUSE, EDAKULAM.P.O, THRISSUR DISTRICT.

2. MANI, S/O.LATE KUMARAN,
KONAKKAMPILLY HOUSE, EDAKULAM.P.O, THRISSUR DISTRICT.

3. SUMA, D/O.LATE KUMARAN,
KONAKKAMPILLY HOUSE, EDAKULAM.P.O, THRISSUR DISTRICT.

4. LALU, S/O.LATE KUMARAN,
KONAKKAMPILLY HOUSE, EDAKULAM.P.O, THRISSUR DISTRICT.

BY ADVS.SRI.NAGARAJ NARAYANAN

SRI.N.NARAYANAN NAIR
SRI.NAIR AJAY KRISHNAN
SRI.SAIJO HASSAN
SRI.A.S.SABU
SRI.VIMAL KUMAR.A.V.
SRI.A.G.GIRISH KUMAR

RESPONDENTS/RESPONDENTS:

1. SUDHEER N.T., S/O THANKAPPAN
NARETTIL HOUSE, P.O.PUNALUR, IRINJALAKUDA
THRISSUR DISTRICT.

2. MADHAVAN, S/O.AYYAPPAN,
KALACHANVEETIL HOUSE, KUMBALAPARAMBU DESOM
EDATHIRUTHY.P.O.

3. THE MANAGER,
UNITED INDIA INSURANCE COMPANY LIMITED, BRANCH, TANA
IRINJALAKUDA.

R3 BY ADV. SRI.N.S.MOHAMMED USMAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 03-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.1216 OF 2006

Dated this the 3rd day of July, 2015

JUDGMENT

Jyothindranath, J.

This appeal is preferred by the claimants in O.P.(MV) No.588/2000 on the file of the Motor Accidents Claims Tribunal, Irinjalakuda. The case is as follows :

2. The original petitioner, who was aged about 60 years was knocked down by an autorickshaw bearing Reg.No.KL-8/C 8274. He sustained serious head injuries and admitted in the Government Hospital, Irinjalakkuda and moved a claim petition before the Tribunal for compensation. During the pendency of the petition, the first petitioner died on 9.11.2000. The wife and children were impleaded themselves as additional petitioners.

3. The case of the additional petitioners is that the deceased was having a monthly income of more Rs.2,500/- and he sustained

severe injuries. The Tribunal awarded only a compensation of Rs.15,088/-. When the appeal came up for hearing, the learned counsel for the appellants submitted before us that the deceased Kumaran sustained very serious head injury. There was incised wound posterior to right ear, lacerated wound on occipital region, diaphragmatic injury, plural effusion left, and pain all over the body.

4. Ext.X5 is the wound certificate which shows the said injuries. It is also submitted that he was admitted in the hospital on 19.3.2000 and was discharged only on 30.3.2000. It is the further submission that the deceased was a coolie and was treated in the Government Hospital. It is the further submission that after discharge, he never went for work and died after seven months i.e. on 9.11.2000. Even though there is no evidence to show that the death was in consequence to the injury, the fact that the deceased was working as a coolie till accident died after 7 months to the accident has not been considered by the Tribunal while the compensation was assessed. It is submitted that the income considered by the Tribunal for assessment purpose is also not adequate.

5. The learned counsel for the Insurance Company submitted

before us that there is nothing to show that the death is due to the injuries and the appellants herein were not having a case like that before the Tribunal.

6. The Tribunal considered only Rs.1500/- as the monthly income. The deceased Kumaran sustained very severe head injuries. It will be only just and proper to consider the monthly income as Rs.2,500/- for the calculation purpose. Thus considering all aspects and further considering the fact that the accident occurred in the year 2000, refixation of compensation is made as follows :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Extra nourishment	1000
Bystander's expenses	1500
Transportation	1000
Loss of earnings	5000 (2500 x 2)
Pain and suffering	25000
Loss of amenities and discomforts	15000
Medical bills	1687.72
Total	50187.72 Rounded off to ₹50200/- (Rupees fifty thousand two hundred only)

7. Thus the appellants are entitled for a total compensation of Rs. 50,200/- which will carry interest @ 9% per annum from the date of petition. The Insurance Company shall deposit the amount with interest before the Tribunal within three months from the date of receipt of a copy of this judgment. From the enhanced compensation, Rs.20,000/- and its interest from the date of petition shall be given to the first appellant, who is the petitioner No.2 before the Tribunal and the balance enhanced amount with interest shall be shared equally between other appellants ie. appellants 2 to 4. The amount will be released to the appellants on deposit by the Insurance Company.

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

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH, JUDGE

SV.