

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. 1907 of 2005 ()

AGAINST THE AWARD IN OPMV 605/2002 of M.A.C.T., PUNALUR DATED 16-07-2005
APPELLANT(S)/PETITIONERS.:

1. LILLY THOBIAS, W/O.THOBAS,
PRASHANTH BHAVAN, NEAR S.N.COLLEGE, CHEMMANTHOOR
PUNALUR P.O.

2. SHEELA THOBIAS, W/O.RAJAN, MANGALATHU
VEEDU, CHEMMANTHOOR, PUNALUR P.O.

3. SHEEJA THOBIAS, W/O.JOHN,
J.S.COTTAGE, NEAR S.N.COLLEGE, PUNALUR P.O.

4. SHERLY THOBIAS, W/O.JOHNSON, PUTHENVEEDU
PERUNNA P.O. CHANGANACHERRY.

5. SHERRY THOBIAS, W/O.GEORGE KUTTY,
PRASHANTH BHAVAN, NEAR S.N.COLLEGE, CHEMMANTHOOR
PUNALUR P.O.

6. GEORGE THOBIAS, S/O.GEORGE KUTTY,
PRASHANTH BAHVAN, NEAR S.N.COLLEGE, CHEMMANTHOOR
PUNALUR P.O.

7. AGES THOBIAS, W/O.SHAJI, MARURETHU HOUSE
CHEMMANTHOOR, PUNALUR P.O.

BY ADVS.SRI.R.BINDU (SASTHAMANGALAM)
SRI.K.V.VINODKUMAR

RESPONDENT(S)/RESPONDENTS.:

1. G.RAHDKRISHNA PILLAI, MADATHIL VEEDU,
CHEMMANTHOOR, PUNALUR.P.O.

2. B.VIJAYAN, S/O.RAGHAVAN,
THAZHAVANA CHARUVILA THAZHATHIL, ARAMPUNNA, PUNALUR.

3. THE BRANCH MANAGER,
ORIENTAL INSURANCE COMPANY LIMITED, PUNALUR.
(NAME OF R2 DELETED AS PER ORDER DATED 23.10.2013 IN MACA)

R,R1 BY ADV. SRI.S.V.BALAKRISHNA IYER (SR.)
R,R1 BY ADV. SRI.R.SURAJ KUMAR
R,R3 BY ADV. SRI.MATHEWS JACOB (SR.)
R,R3 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD 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.1907 of 2005

Dated this the 25th day of February, 2015

JUDGMENT

Asha, J.

The appellants are the legal heirs of the deceased who met with an accident on 12.3.2002 and succumbed to the injuries on the same day. A claim petition was filed seeking compensation to the tune of Rs.2 Lakhs. The deceased was a pensioner aged 74 years. The Tribunal awarded a sum of Rs.84,360/-. This appeal is filed seeking enhancement of compensation on the ground that the the monthly income taken is too low and the compensation awarded is inadequate.

2. The Tribunal found that the deceased was a retired Head Constable who was drawing a monthly pension of Rs.3,217/-. Seeing that the widow could draw family pension, the amount covered by the family pension was deducted and the loss of income was reckoned as Rs.1,609/-. One third of the annual income was deducted and the loss of dependency was arrived at adopting the multiplier of 5, as

Rs.64,360/-. We find that the deduction of personal expenses out of the annual income arrived at, viz. Rs.19,308/- was not proper. Therefore, we adopt the monthly income at the rate of Rs.1,609/- for the purpose of assessing compensation under the head of loss of dependency which will come to Rs.96,540/- (Rs.1609 x 12 x 5). The Tribunal has awarded a sum of Rs.5,000/- towards loss of consortium and no amount is awarded for loss of love and affection. We award a sum of Rs.30,000/- towards loss of consortium and Rs.30,000/- for loss of love and affection. A sum of Rs.3,000/- has been awarded towards funeral expenses which we enhance to Rs.15,000/-. Therefore, the total compensation will come to Rs.1,83,540/- under the following heads:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Modified award passed by this Court (Rs)</i>
Loss of dependency	64360	96540
Transportation charges	2000	2000
Funeral expenses	3000	15000
Loss of consortium	5000	30000
Loss of love and affection		30000
Pain and suffering	10000	10000
Total		183540

(Rupees One lakh eighty-three thousand five hundred and forty only)

The enhanced amount will carry interest at the rate of 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.

The appeal is allowed as above. No costs.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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