

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 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

MACA.No. 1979 of 2012 ()

AGAINST THE AWARD IN OPMV 486/2008 of M.A.C.T., KOZHIKODE
DATED 18-11-2009

APPELLANTS/PETITIONERS:

1. K.MEENA,
AGED 38 YEARS,
W/O.LATE HARIDASAN.

2. RAGI
D/O.LATE HARIDASAN.

3. AKHIL
S/O.LATE HARIDASAN.

4. ARUN.K,
AGED 21 YEARS,
S/O.LATE HARIDASAN.

5. SHEELAVATH,
I AGED 63 YEARS
W/O.SUBRAMANIAN,

(ALL RESIDING AT KARAYIL HOUSE
ARTS COLLEGE POST, KOZHIKODE).

BY ADVS.SRI.V.S.CHANDRASEKHARAN
SRI.PRINCY XAVIER
SMT.LEKSHMI SWAMINATHAN

RESPONDENT(S)/RESPONDENTS:

* 1. ABDUL KHADER
AGE NOTE KNOWN, S/O.MOOSA,
KURUVANGAL HOUSE, PAVANDOOR POST, NANMINDA VIA
KOZHIKODE. (DELETED)

2. SHIBU
S/O.SURENDRAN, AGE NOTE KNOWN,
PAVANGAT MANIYARIKANDY HOUSE
PUTHIYANGADI POST, KOZHIKODE.

3. THE ORIENTAL INSURANCE CO.LTD
DIVISIONAL OFFICE, SEEMA BUILDING, G.H.ROAD
KOZHIKODE.

(*Respondent No.1 is deleted from the party array, at
the risk of the appellant, vide order dtd 30.10.14 in
I.A.3164 of 2014)

R3 BY ADV. SRI.A.R.GEORGE
R BY SRI.GEORGE CHERIAN (THIRUVALLA)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 14-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A No.1979 of 2012

Dated this the 14th day of January, 2015

JUDGMENT

Asha, J.

The appellants are widow, children and mother of the deceased Haridasan. The deceased met with an accident on 3.11.2006 and he succumbed to the injuries on the same day. Claiming that he was a building contractor with a monthly income of Rs.8,000/-, the claim petition was filed seeking compensation of Rs.6 lakhs. He was aged 45 years. The Tribunal awarded a sum of Rs.3,75,000/-, adopting the multiplier as 15 reckoning the age of the dependent wife and fixing the income @ Rs.2,500/- per mensem. The appellants seek enhancement of compensation. It is submitted that the compensation awarded under various heads is thoroughly inadequate.

2. The accident occurred in the year 2006. Even though the claim regarding the monthly income was Rs.8,000/-, going by the wage structure prevailing at the relevant time and having

regard to the fact that the Apex Court has reckoned a sum of Rs.4,500/- as the monthly income of persons engaged in unorganised sector in respect of accidents which occurred in 2004, we find it just to fix the income of the deceased @ Rs.4,000/- per mensem. As the deceased was aged 45 at the time of the accident, the multiplier to be adopted, in accordance with the dictum in **Sarla Verma v. Delhi Transport Corporation** [2010 (2) KLT 802 (S.C)], is 13. Therefore the compensation under the head 'loss of dependency' is refixed as Rs.4,000 X 12 X 13 X $\frac{3}{4}$, which will come to Rs. 4,68,000/-. There are 5 dependents and $\frac{1}{4}$ of the income is deducted towards personal expenses. Under the heads - funeral expenses, love and affection and loss of consortium, the Tribunal has awarded Rs.3,000/-, 10,000/- and Rs.7,500/- respectively. Going by the judgment in **Rajesh v. Rajbir Singh** [2013(3) KLT 89(S.C)], the appellants will be entitled to a sum of Rs.25,000/- towards funeral expenses, the widow will be entitled to a sum of Rs.1 lakh towards loss of consortium. The 3 children and mother lost the love and affection of their father and son respectively. Therefore, we find it just to award a sum of Rs.2 lakhs towards love and affection. Towards loss of estate, a sum of Rs.10,000/- alone is granted.

We enhance the same to Rs.25,000/-. Accordingly, we refix the compensation as follows:

<i>Sl.No.</i>	<i>Head of claim</i>	<i>Amt.</i>
1	Transport to hospital	Rs. 1,500.00
2	Damage to clothing	Rs. 500.00
3	Pain and suffering	Rs. 5,000.00
4	Funeral Expenses	Rs. 25,000.00
5	Loss of love and affection	Rs.2,00,000.00
6	Loss of estate	Rs. 25,000.00
7	Loss of consortium	Rs.1,00,000.00
8	Loss of dependency	Rs.4,68,000.00
	TOTAL	Rs.8,25,000.00

(Rupees Eight lakhs twenty five thousand only)

3. The appellants will be entitled to a total compensation of Rs.8,25,000/- (Rupees Eight lakhs twenty five thousand only). This will carry interest @ 9% per annum from the date of petition. The Insurance Company is directed to deposit the entire amount of compensation within a period of three months from the date of receipt of a copy of this judgment, less the amount already deposited before the Tribunal and on such deposit being made, the claimants can withdraw the amount in accordance with the apportionment fixed by the Tribunal. The share of the minor children shall be kept in the fixed deposit in a

nationalised bank till they attain majority.

4. The Court Fee towards the enhanced award shall be recovered before disbursement.

5. It is seen that there was a delay of 600 days in filing this appeal. It is made clear that interest need not be paid for the said period of 600 days.

The appeal is allowed accordingly. No costs.

Sd/-
T.R.RAMACHANDRAN NAIR
Judge

Sd/-
P.VASHA
Judge

rtr/

/true copy/

P.S to Judge