

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

MACA.No. 274 of 2007 ()

AGAINST THE AWARD IN OPMV 846/1999 ON THE FILE OF THE MOTOR ACCIDENTS
CLAIMS TRIBUNAL,KOLLAM DATED 13-01-2004

APPELLANTS/PETITIONER.:

1. RADHAMONY AMMA, CHANKEER MEENATHETHIL
VEEDU, MENAMPALLY, CHAVARA.
 2. MURALEEDHARA PILLAI,
CHANKEER MEENATHETHIL VEEDU, MENAMPALLY, CHAVARA.
 3. CHANDRAPRAKASH,
CHANKEER MEENATHETHIL VEEDU, MENAMPALLY, CHAVARA.
 4. JAYASREE,
CHANKEER MEENATHETHIL VEEDU, MENAMPALLY, CHAVARA.
 5. PRAMOD KUMAR,
CHANKEER MEENATHETHIL VEEDU, MENAMPALLY, CHAVARA.
 6. S.VIJAYAN PILLAI,
CHANKEER MEENATHETHIL VEEDU, MENAMPALLY, CHAVARA.
- BY ADV. SRI.C.RAJENDRAN

RESPONDENTS/RESPONDENTS.:

1. THE MANAGING DIRECTOR,
KSRTC, THIRUVANANTHAPURAM.
2. DIVAKARAN NAIR C.,
PALAKKUZHI PUTHEN VEEDU, PARASSALA.

R,R.1 BY ADV. SRI.K.PRABHAKARAN, SC, K.S.R.T.C.
R1 BY ADV. SRI.JOY GEORGE, SC, K.S.R.T.C.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 06-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

AL/-

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

M.A.C.A.No.274 of 2007

Dated this the 6th day of February 2015

JUDGMENT

Ramachandran Nair, J.,

Appellants are the claimants before the Tribunal. The application was filed consequent to the death of one Pradeep Kumar, who died on 4.5.1999 in a motor accident. He was travelling as a pillion rider in a scooter bearing Reg. No. KL-2/C 7125 through the National Highway. The accident occurred near Sakthikulangara and the offending vehicle is a Super Fast Bus bearing Registration No. KL-15/3022. While overtaking another bus, it hit on the front portion of the scooter and thereby the rider and pillion rider of the scooter were thrown on the road and sustained serious injuries.

2. Initially, the deceased was taken to District Hospital, Kollam and thereafter he was taken to Medical College Hospital, Thiruvananthapuram. While undergoing treatment, he died. The

deceased was aged 28 years at the time of the accident and he was a degree holder and he was conducting a Tutorial college under the name and style 'Victory College' at Chavara. The monthly income claimed is Rs. 5,500/-.

3. The total compensation claimed was Rs. 5 lakh. The Tribunal found that from among the claimants, the parents alone are the dependents of the deceased.

4. While arriving at the multiplicand, the Tribunal has adopted Rs. 2,000/- as his notional income. The claimants relied upon oral evidence of the mother and documents Exts. A7 & A8. Ext.A8 was produced to show that he was getting a salary of Rs.6,000/- per month. But it was not accepted on the ground that in the application Rs. 5,500/- shown as the monthly income and therefore, there is inconsistency. Ext.A7 is an advise memo issued by the Kerala Public Service Commission to the deceased dated 17.2.2001 which will show that he was appointed as a Watchman in the Industrial Training Department on a scale of pay of Rs. 775- 1065. While reckoning the salary scale therein the Tribunal fixed it as Rs. 2,000/- as the monthly income.

5. As far as fixation of compensation is concerned, we will have to adopt a reasonable amount as multiplicand, considering the circumstances of the parties as well as the occupation the deceased was having. It has been proved in evidence that he was managing a tutorial college as Principal. In the light of the above, according to us, an amount of Rs. 3,500/- can be taken as the monthly remuneration since the accident occurred in the year 1999. The Tribunal has adopted the age of the parents for fixing the multiplier and going by the judgment in **Sarla Verma V. Delhi Transport Corporation [(2010 (2) KLT 802 (SC)]** it should go by the age of the deceased. Since he was aged 28, the actual multiplier will be 17 and we adopt the same.

6. The Tribunal has granted towards loss of love and affection only Rs. 10,000/- and for transportation and for funeral expenses, also Rs. 5,000/- only was granted. The death was not instantaneous. But only Rs. 3,000/- was granted for pain and suffering.

7. Hence we recompute the compensation in the following manner:

Loss of dependency will be Rs. $3500 \times 12 \times 17 \times 50 / 100 = 3,57,000/-$. As compensation towards loss of love and affection we grant Rs. 1 lakh and for funeral expenses we grant Rs. 25,000/- in the light of the judgment of the Apex Court in *Rajesh v. Rajbir Singh* (2013 (3) KLT 89 (SC)). For transportation we grant Rs. 3,000/- and towards pain and suffering Rs. 10,000/- and towards loss of estate Rs. 15,000/- are also hereby granted.

8. Accordingly the award is modified as follows:

<i>Sl.No.</i>	<i>Heads</i>	<i>Amount awarded (inRs)</i>	<i>Amount modified (in Rs.)</i>
1	Loss of dependency	1,15,200	357000
2	Loss of love and affection	10000	100000
3	Transportation	5000	3000
4	Pain and suffering	3000	10000
5	Loss of estate		15000
6	For funeral expenses		25000
	Total	1,33,200	5,10,000

Thus the total compensation will be Rs. 5,10,000/- (Rupees Five lakh Ten Thousand only) which will carry interest at the rate of 9% per annum in the light of the decision of the Apex Court in **Supe Dei(Smt.) & Ors. v. National Insurance Co.**

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Ltd. and Anr. [(2009)4 SCC 513]. Since the appellants alone are found to be the dependents of the deceased, they will be entitled for the amount awarded as compensation.

The appeal is allowed accordingly. No costs in the appeal.

Sd/-

**T.R.RAMACHANDRAN NAIR
(JUDGE)**

Sd/-

**P.V.ASHA
(JUDGE)**

AL/-

True copy

P.A to Judge