

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 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

MACA.No. 2 of 2011 ()

**AGAINST THE AWARD IN OP(MV) 1109/2005 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,
PERUMBAVOOR DATED 31-08-2010
APPELLANT(PETITIONER IN OP(MV) 1109/05):**

- 1. SHERLY JOHN, AGED 40 YEARS
MOTHER OF DECEASED AGNUS K.JOHN, KARUKKAYIL HOUSE
POTTAKUZHI, ELAMAKKARA.**
- 2. K.A.JOHN, AGED 49 YEARS,
FATHER OF DECEASED AGNUS K.JOHN, KARUKKAYIL HOUSE
POTTAKUZHI, ELAMAKKARA.**

BY ADV. SRI.V.K.GOPALAKRISHNA PILLAI

RESPONDENT(RESPONDENT NO.3 IN OP(MV) 1109/05):

**NATIONAL INSURANCE CO.LTD.
DIVISIONAL OFFICE, DAMODAR CHAMBERS, STATUE JUNCTION
TRIPUNITHURA P.O.**

BY ADV. SMT.RAJI T.BHASKAR

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
07-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

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

M.A.C.A.No.2 of 2011

Dated this the 7th day of August, 2015

J U D G M E N T

K.P. Jyothindranath, J.

This is an appeal preferred against the award in O.P. (M.V)No.1109/2005 on the file of the Motor Accidents Claims Tribunal, Perumbavoor. The claimants are the appellants. The challenge is against the quantum of compensation awarded by the Tribunal.

2. The facts are as follows:

The application is filed under Section 163A of the Motor Vehicles Act. A motor vehicle accident occurred on 17.4.2005 at 9 30 a.m. involving a motorbike. The deceased was a pillion rider on the said vehicle who was only aged 3½ years. The parents are the appellants herein. The Tribunal awarded a total compensation of Rs.1,54,500/-.

3. When the appeal came up for hearing, the main submission made before us is that the Tribunal not adopted the schedule prescribed in the Act in respect of an

application under Section 163A of the Act. It is the submission that without precedents, the Tribunal took only Rs.1,250/- as the monthly income of the child and an assessment is made. It is also the submission that as per the decision of this court reported in **Sujesh V. v. M/s. K.K. Menon Motor Service [2014 (1) KHC 92 (DB)]** Rs.2,000/- was considered in respect of a child. It is also the submission that as per the table the annual income are given as Rs.3,000/-, Rs.4,200/-, Rs.5,400/-, Rs.6,600/- Rs.7,800/-, Rs.9,000/-, Rs.10,200/-, Rs.11,400/-, Rs.12,000/- and Rs.18,000/-. It is the submission that if the annual income is above Rs.12,000/-, the Tribunal is bound to take Rs.18,000/- for calculation of dependency.

4. The counsel for the Insurance Company submitted before us that in a case of a child aged 3½ years, the compensation awarded is adequate and sufficient. It is also the submission that the Apex Court was always on the view that a multiplier method will be desirable even in a case where application is under Section 163A of the M.V. Act.

5. After considering the submissions and all attending circumstances and also considering the table prescribed under Section 163A of the Act, we feel that it will be only just and proper to follow the table. Thus in the case of a person having an income of Rs.18,000/- per annum and a child up to 15 years, the amount available will be Rs.3,60,000/-. 1/3rd has to be deducted from this amount. Thus the amount available towards dependency will be Rs.2,40,000/-. Apart from this, the claimants will be entitled for Rs.2,000/- towards funeral expenses and Rs.2,500/- towards loss of estate. Thus the total compensation entitled to the appellants will be Rs.2,44,500/- (Rupees two lakhs forty four thousand five hundred only).

6. The enhanced compensation will carry interest at the rate of 9% per annum from the date of petition till realisation.

7. There will be a direction to the Insurance Company to deposit the amount of compensation with interest, less the amount already deposited, before the

Tribunal within a period of three months. On such deposit being made, the appellants will be entitled for the release of the amount.

8. The enhanced compensation shall be shared equally in between the appellants.

The appeal is accordingly allowed. There will be no order as to costs in the appeal.

Sd/-
T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-
K.P. JYOTHINDRANATH
JUDGE

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P.A. TO JUDGE

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