

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. 738 of 2007 ()

AGAINST THE AWARD IN OPMV 1591/2002 of M.A.C.T., MANJERI DATED
27-12-2006

APPELLANT/IST PETITIONER:

JANARDHANAN, AGED 59 YEARS,
S/O.RAVUNNI MENON, "SRUTHI", PUTHOOR P.O.

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS/2ND AND 3RD PETITIONERS AND RESPONDENTS:

1. PRAVEENA, AGED 29 YEARS,
D/O.JANARDHANAN, "SRUTHI", PUTHOOR P.O.
(WRONGLY SHOWN AS PRAVEEN IN THE AWARD)

2. PRASEENA, AGED 26 YEARS,
D/O.JANARDHANAN, "SRUTHI", PUTHOOR P.O.

3. ABDUL RASHEED THAYYIL, S/O.MOIDU,
THAYYIL HOUSE, MELATTUR P.O.
(DRIVER OF BUS KL-10/J7587) .(DELETED)

4. C.H.MOHAMMED ALI, S/O.MAMMU HAJI,
CHAKKINGALTHODI HOUSE, KODUR P.O.
(OWNER OF BUS KL-10/J7587) .

5. THE NATIONAL INSURANCE CO.LTD.,
REPRESENTED BY ITS BRANCH MANAGER, KORAMBAYIL ARCADE
MANJERI.

* R3 IS DELETED FROM THE PARTY ARRAY AS PER ORDER DATED
11.6.2015 IN MACA.

R5 BY ADV. SRI.JOE KALLIATH

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION 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.738 OF 2007

Dated this the 3rd day of July, 2015

JUDGMENT

Jyothindranath, J.

The quantum of compensation is under challenge in this appeal.

The first claimant is the appellant herein. The facts is as follows :

2. On 10.06.2002 at about 7.30 p.m., while the deceased was travelling on a motor cycle bearing Reg.No. TN 37 E 3463 as pillion rider, it met with a motor vehicle accident and in that accident, the deceased sustained fatal injuries and succumbed to the injuries. The other vehicle involved in the accident is the bus bearing Reg.No.KL 10/J 7587. A claim for compensation moved before the Tribunal alleging negligence on the side of the driver of the bus as cause of accident. The husband and children of the deceased were the claimants who claimed a total compensation of Rs. 4 lakhs. The Tribunal awarded a total compensation of Rs.2,65,500/-. Aggrieved by the quantum of compensation, this appeal is preferred.

3. When the appeal came up for hearing, the learned counsel for the appellant submitted before us that the deceased was aged 44 at the time of the accident. It is also the submission that the Tribunal took only a monthly income of Rs.2,000/- for the calculation purpose. The husband of the deceased was a railway employee who was drawing more than Rs.10,000/- at that point of time. It is also the submission that the compensation awarded under the heads of funeral expenses, loss of estate, pain and suffering, loss of consortium and loss of love and affection are inadequate.

4. We heard the learned counsel for the Insurance Company, who submitted before us that the accident occurred in the year 2002. It is also the submission that the deceased was only a housewife and there was no income and the compensation awarded is adequate and no interference is warranted.

5. After going through the compensation awarded on various heads and also considering the age of the deceased as well as the multiplier used to assess the loss of dependency, we feel that reassessment of compensation is warranted. Hence, we refix the just

compensation as follows :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Transport to hospital	1000
Funeral expenses	15000
Pain and suffering	10000
Loss of consortium	100000
Loss of love and affection	100000
Loss of estate	25000
Loss of dependency	336000 (3000 x 12 x 14 x 2/3)
Total	587000 (Rupees five lakhs eighty seven thousand only)

6. The enhanced compensation will carry interest @ 9% per annum from the date of petition. The children are major now. The enhanced compensation shall be shared in the ratio of 50:25:25 i.e. 50% will be entitled to the appellant/ husband of the deceased and 25% each of the enhanced compensation with interest will be entitled to the children who are arrayed as respondents 1 and 2 in the appeal. The fifth respondent/ Insurance Company shall deposit the amount with

interest within three months from the date of receipt of a copy of this judgment. It is further made clear that the court fee for the amount over and above the claim allowed shall be deducted from the deposited amount before disbursing the same to the claimants by the Tribunal.

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

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH,JUDGE

SV.