

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

MACA.No. 680 of 2013 ()

AGAINST THE AWARD IN OPMV 829/2008 of M.A.C.T., PALAKKAD DATED 10-04-2012

APPELLANT(S)/PETITIONERS:

1. VALLIKUTTY, W/O.KASU, AGED 64 YEARS, RESIDING AT
NONNANKULAM HOUSE, KADAMBIDI, CHITTILEMCHERY P.O.
PALAKKAD DISTRICT.

2. SIVADAS ALIAS SIVAN, S/O.KASU, AGED 32 YEARS
RESIDING AT NONNANKULAM HOUSE, KADAMBIDI
CHITTILEMCHERY P.O., PALAKKAD DISTRICT.

BY ADV. SRI.BABY MATHEW

RESPONDENTS/RESPONDENTS:

1. SHAMSUDHEEN
S/O.MEERANKUTTY AGE NOT KNOWN, KADAMBIDI HOUSE
CHITTILEMCHERY P.O.
PALAKKAD DISTRICT 678 504 (R.C. OWNER OF TEMPO VAN NO.KL-9/C-6883).

2. UMMER FAROOQUE, S/O.SHAMSUDHEEN, AGED 19 YEARS,
KADAMBIDI HOUSE, CHITTILEMCHERY P.O.
PALAKKAD DISTRICT - 678 504. (DRIVER OF
TEMPO VAN NO.KL-9/C-6883)

3. UNITED INDIA INSURANCE COMPANY LTD, 2ND FLOOR, IG TOWER,
NEMMARA P.O.
PALAKKAD DIST 678 508 (INSURER OF TEMPO VAN NO.KL-9/C-6883).

R3 BY ADV. SRI.RAJESH THOMAS

RR1 & 2 BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 03-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.680 of 2013

Dated this the 3rd day of March, 2015

JUDGMENT

Asha, J.

The appellants are the legal heirs of deceased Sunilkumar who met with an accident on 17.2.2008 while standing near an autorickshaw at Kadambidi when he was hit by a tempo van. He sustained serious injuries and was taken to Crescent Hospital, Alathur and referred to Aswini Hospital. He succumbed to the injuries while in the hospital. A claim petition was filed seeking compensation to the tune of Rs.5 lakhs. The Tribunal awarded a sum of Rs.1,81,000/-.

2. This appeal is filed seeking enhancement in compensation.

3. The deceased was a panthal worker. He was aged 25 years. It is claimed that he was earning a sum of Rs.4,500/- towards monthly income. The Tribunal reckoned the monthly income at Rs.3,500/-.

4. Learned counsel for the appellants submitted that the compensation awarded under various heads are thoroughly inadequate.

the multiplier adopted is with reference to the age of the mother.

5. We heard learned counsel for the insurance company also.

6. The deceased was aged only 25. Therefore, the proper multiplier to be adopted, going by the judgment in **Sarla Verma v. Delhi Transport Corporation** (2010 (2) KLT 802 - SC), is 18 with reference to the age of the deceased. In the absence of any evidence to the contrary, we are of the view that the Tribunal ought to have accepted the claim of the appellants that the deceased was earning a sum of Rs.4,500/- per month since it was only reasonable, going by the wage structure prevailing at the relevant time. Therefore, reckoning his monthly income at Rs.4,500/-, we refix the compensation under the head of loss of dependency as Rs.4,86,000/- ($4500 \times 12 \times 15 \times 50/100$). The Tribunal has awarded only a sum of Rs.10,000/- towards loss of love and affection, Rs.5,000/- towards loss of estate and an amount of Rs.2,000/- towards funeral expenses. Going by the judgment of the Apex Court in **Rajesh v. Rajbir Singh** (2013 (3) KLT 89 - SC), we award a sum of Rs.25,000/- towards funeral expenses, a sum of

Rs.50,000/- towards compensation for love and affection and a sum of Rs.20,000/- towards loss of estate. It is seen that the deceased succumbed to the injuries after treatment in two hospitals, after experiencing the shock and sufferings due to the injuries. Therefore, we award a sum of Rs.10000/- towards compensation for pain and suffering.

Thus, the award passed by the Tribunal is modified in the following manner:

<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	164000	486000
Loss of love and affection	10000	50000
Loss of estate	5000	20000
Funeral expenses	2000	25000
Pain and suffering		10000
Total		591000

(Rupees Five lakhs and ninetyone thousand only)

The enhanced amount will carry interest at the rate of 9% per annum 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. The parties will bear their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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