

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

MACA.No. 536 of 2011 ()

**(AGAINST THE AWARD IN OP(MV).NO. 2369/1997 OF 1ST ADDL.MOTOR ACCIDENT
CLAIMS TRIBUNAL, KOLLAM DATED 31-03-2004)**

APPELLANT(S)/PETITIONERS:

1. FRANCIS,S/O.IMMANUEL,
RENJITH VILASOM, (NILAKKARA VEEDU),
PADAPPAKKARA, PERAYAM, MULAVANA.

2. RENJITH, S/O. FRANCIS,
RENJITH VILASOM, (NILAKKARA VEEDU),
PADAPPAKKARA, PERAYAM, MULAVANA.

3. NISHA, D/O. FRANCIS,
RENJITH VILASOM, (NILAKKARA VEEDU),
PADAPPAKKARA,PERAYAM, MULAVANA.

4. LISHA, W/O. GRAHARY(DIED),
RENJITH VILASOM, (NILAKKARA VEEDU),
PADAPPAKKARA, PERAYAM, MULAVANA.

5. GRAHARY(DIED),
RENJITH VILASOM, (NILAKKARA VEEDU),
PADAPPAKKARA, PERAYAM, MULAVANA.

**BY ADVS.SRI.K.S.MANU (PUNUKKONNOOR)
SRI.P.SREEKUMAR**

RESPONDENT(S)/RESPONDENTS :

1. D.IBRAHIM, ULLAPPALLY PUTHENPURA,
PERUMBALLOOR.P.O., MUVATTUPUZHA,
ERNAKULAM.

2. A. LALU, S/O. ABRAHAM,
NJALIVILA PUTHENVEEDU, MULAVANA MARKET,
MULAVANA VILLAGE, KOLLAM DISTRICT.

3. THE DIVISIONAL MANAGER,
ORIENTAL INSURANCE COMPANY LIMITED, KOLLAM.

M.A.C.A.NO.536/2011

4. MURALEEDHARAN, S/O. CHELLAPPAN,
PARAMKIMAM VILA VEEDU, KILIKOLLOOR,
KOLLAM.
5. AJAYA KUMAR, S/O. NELSON,
NEAR VEDANMUKKU, PERAYAM CHERRY,
MULAVANA.
6. THE DIVISIONAL MANAGER,
NATIONAL INSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE, KOLLAM.

R3 BY ADV. SRI. GEORGE CHERIAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

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M.A.C.A No.536 of 2011

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Dated this the 23rd day of March, 2015

JUDGMENT

Asha, J

The widower and four children of the deceased who met with an accident on 01.05.1997. She was travelling in an autorickshaw which collided with a jeep causing fatal injuries to her.

2. Claim petition was filed before the Tribunal seeking compensation of Rs.4,10,000/-, which was limited to Rs.3,00,000/-. The Tribunal awarded a sum of Rs.1,14,400/-. This appeal is filed seeking enhancement in compensation, pointing out that the amounts awarded under various heads are thoroughly inadequate.

4. We heard the learned counsel appearing for the appellant as well as the insurance company . It is submitted that the compensation awarded on various heads are thoroughly inadequate. The Tribunal has awarded the following amounts.

<i>Sl.No.</i>	<i>Head of claim compensation for</i>	<i>Amount awarded (in Rupees)</i>
1	Funeral expenses	2000
2	Transportation	1000
3	Pain and suffering	25000
4	Loss of estate (600x12x12)	86400
	Total	Rs.1,14,400/-

6. The deceased is claimed to have been working as fish vendor. She was aged 41 years at the time of accident. Tribunal reckoned her income @ Rs.600/-only. We are of the view that a sum of Rs.2,000/- can be reckoned as her income. Going by the judgment in **Sarla Verma v Delhi Transport Corporation and others (2010(2) KLT 802)**, the proper multiplier is 14, in the case of the deceased aged 41. Therefore, since there are five dependents, after deducting $1/4^{\text{th}}$ towards personal expenses, the compensation under the head of loss of dependency will be come to Rs.2,52,000/- ($2000 \times 12 \times 14 \times 3/4$). Towards funeral expenses the Tribunal has awarded only Rs.2,000/-, which we enhance to Rs.15,000/- since the death occurred in the year 1997. In the light of the judgment of the Apex Court in **Rajesh v Rajbir Singh (2013(3) KLT 89(SC))**, we award Rs.1,00,000/- towards loss of

love and affection to the four children and Rs.1,00,000/- to the widower towards loss of consortium. The Tribunal has awarded a sum of Rs.86,400/- towards loss of estate while denying any amount under the head of loss of dependency. We award a sum of Rs.15,000/- towards loss of estate and retain the compensation awarded towards transportation and pain and sufferings. The award passed by the Tribunal is accordingly modified as follows.

Sl. No.	Head of claim	Amount Awarded by the Tribunal(in Rupees)	Amount awarded in this Court (in Rupees)
1	Funeral expenses	2000	15000
2	Transportation	1000	1000
3	Pain and suffering	25000	25000
4	Loss of consortium		100000
5	Loss of love and affection		100000
6	Loss of dependency (2000x12x14x3/4)		252000
7	Loss of estate	86400	15000
	Total	Rs.1,14,400/-	Rs.5,08,000/-

Therefore, the total compensation will come to Rs.5,08,000/-. The enhanced compensation will carry interest at the rate of 9% per annum from the date of petition.

The insurance company is directed to deposit the amount less the amount already deposited within a period of three months from the date of receipt of copy of the judgment. The Tribunal has to recover the amount towards deficit court fee from the amount to be deposited by the insurance company.

The appeal is allowed accordingly. Parties shall suffer the respective costs.

Sd/-
T.R.RAMACHANDRAN NAIR (JUDGE)

Sd/-
P.V.ASHA (JUDGE)

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