

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 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

MACA.No. 1267 of 2007

OPMV 1241/2004 OF MOTOR ACCIDENT CLAIM TRIBUNAL, PALA DATED 30-09-2006

APPELLANT(S)/PETITIONERS:

- 1. GOPIDAS, S/O. KOVILPILLA, STAGBROOK
ESTATE, PEERUMEDU P.O., PALLIKUNNU KARA,
ELAPPARA VILLAGE, NOW RESIDING AT CHAKKUMKUZHIYIL
HOUSE, KARINILAM P.O., ERUMELY NORTH VILLAGE,
MUNDAKAYAM.**
- 2. SELVAM MARY, W/O. GOPIDAS,
STAGBROOK ESTATE, PEERUMEDU P.O., PALLIKUNNU KARA.**
- 3. PREETHI, D/O. GOPIDAS, STAGBROOK ESTATE,
PERUUMEDU P.O., PALLIKUNNU KARA, ELAPPARA VILLAGE,
NOW RESIDING AT CHAKKUMKUZHIYIL HOUSE, KARINILAM P.O.,
ERUMELY NORTH VILLAGE, MUNDAKAYAM.**

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)

RESPONDENT(S):

- 1. M.PANDY, S/O. MUNIYANDI, DOOR NO. 14,
VELAPPANACHARY STREET, HANUMANTHANPETTY BHAGOM,
UTHAMAPALAYAM TALUK, TAMILNADU STATE.**
- * 2. M.SATHICK ALI, S/O. M.MUHAMMED ALI, 4/12
PHATHAPPANKULAM, 18TH STREET, CAMBUM P.O.,
UTHAMAPALAYAM TALUK, TAMILNADU STATE. (DELETE)**
- 3. THE NATIONAL INSURANCE CO. LTD.,
REPRESENTED BY ITS THENI BRANCH MANAGER,
THRISUMANGALAM, THENI, TAMILNADU.**
- * RESPONDENT NO.2 IS DELETED FROM THE PARTY ARRAY,
AT THE RISK OF THE APPELLANT AS PER ORDER DTD.19.3.2015
IN IA.1029/2015 IN MACA.1267/2007.**

**R1 BY ADV. SRI.C.UNNIKRISHNAN (KOLLAM)
R3 BY ADV. SMT.SARAH SALVY**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

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

.....
M.A.C.A. No.1267 of 2007
.....

Dated this the 30th day of March, 2015.

J U D G M E N T

T.R.Ramachandran Nair

The appellants are the parents and sister of the deceased Prakash. The accident occurred on 3-10-2004 at 9.30 pm. The deceased Prakash was driving his autorikshaw bearing Reg.No.KL-6/VB 8216 through Kuttikkanam-Kumali Road. The spot of the accident is near the Taluk Hospital Junction in NH-220. The offending vehicle is a lorry bearing Reg.No.TN-21/T-7899 which was coming from the opposite direction. Due to the hit of the lorry on the autorickshaw, he sustained serious injuries and was taken to Taluk Headquarters Hospital, Peerumedu. He succumbed to the injuries also. Late Prakash was the sole breadwinner of the family.

2. The Tribunal found negligence on the part of the driver of the lorry. The deceased was aged about 25 years at the time of the accident. The monthly income claimed is

Rs.3,250/-. But the Tribunal fixed it as Rs.2,500/-.

3. The application is one filed under Sec. 163A of the Act. But having regard to the fact that he was a driver, we have to fix a fair compensation. We fix the annual income at Rs.40,000/- and the multiplier will be 17. It is submitted that the Tribunal has granted Rs.2000/- towards funeral expenses, Rs.2500/- towards loss of estate, Rs.5000/- towards pain and sufferings. The compensation as per the second schedule for the age group up to 25 will be Rs.7,20,000/- and 1/3 of it will have to be deducted for expenses and hence the balance will be Rs.4,80,000/-.

Therefore, we modify the amount of compensation in the following manner:

<i>Heads of claims</i>	<i>Amount awarded by the Tribunal</i>	<i>Amount modified.</i>
Funeral expenses	2000	2000
Loss of dependancy	300000	4,80,000
Loss of estate	2500	2500
Pain and sufferings	5000	5000
Transportation expenses		3000
Total	3,09,500	4,89,500

(Rupees four lakhs eighty nine thousand five hundred only)

4. Therefore the total compensation will come to Rs.4,89,500/-. Out of the total compensation fixed above, 50% will be shared by the mother, the second appellant, and the remaining amount will be shared equally by appellant Nos.1 and 3. The total compensation will carry interest at the rate of 9% per annum from the date of petition. The Insurance company will deposit the amount, less any amount already deposited before the Tribunal, within a period of three months. We permit all the appellants to withdraw the amount.

The appeal is allowed accordingly. The parties shall bear respective costs in the appeal.

T.R.RAMACHANDRAN NAIR
JUDGE

P.V. ASHA
JUDGE

smm