

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

MACA.No. 898 of 2011 ()

AGAINST THE AWARD IN OPMV 744/2010 of PRINCIPAL M.A.C.T.,KOZHIKODE
DATED 20-01-2011

APPELLANTS/PETITIONERS:

1. V.O.CHACKO
AGED 71 YEARS, S/O OUSEPH
(FATHER OF THE DECEASED).
2. KATHREENA CHACKO, AGED 66 YEARS,
W/O.V.O.CHACKO, (MOTHER OF THE DECEASED).
3. SHYNI SAJI, AGED 36 YEARS, W/O.SAJI,
(WIFE OF THE DECEASED).
4. ABIN SAJI, (MINOR), AGED 11 YEARS,
D.O.B.24/12/1998, S/O.SAJI
(SON OF THE DECEASED REPRESENTED BY 3RD PETITIONER
5. AMALDA SAJI, (MINOR) AGED 11 YEARS,
D.O.B.24/12/1998, D/O.SAJI
(DAUGHTER OF THE DECEASED REPRESENTED BY 3RD
PETITIONER)

(ALL ARE RESIDING AT VADAKKANVEETIL HOUSE
KANNOTH POST, KODENCHERY VIA, KOZHIKODE)

BY ADVS.SRI.P.S.SREEDHARAN PILLAI
SMT.C.G.PREETHA
SRI.T.K.SANDEEP
SRI.ARJUN SREEDHAR
SRI.JOSEPH GEORGE (MULLAKKARIYIL)

RESPONDENTS/RESPONDENTS.:

1. NAFEESA, KALLADIKUNNU, KAITHAPOYIL POST
PUDUPPADI, KOZHIKODE.
2. P.MUSTHAFA, S/O.KAMMU,,
POONTHURUTHY HOUSE, KAITHAPOYIL POST, 26TH MILE
KALLADIKUNNU, PUTUPPADI, KOZHIKODE 673 611
3. THE RELIANCE GENERAL INSURANCE,
191 RELIANCE CENTRE, WALCHAND HIRACH AND MARG
BILLARD ESTATE, MUMBAI-400 001.

R3 BY ADV. SRI.K.B.RAMANAND

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.898 OF 2011

Dated this the 18th day of February, 2015

JUDGMENT

Asha, J.

Appellants are the legal heirs – parents, widow and two children- of the deceased Chacko Mathew, who met with an accident on 8.7.2009 and succumbed to the injuries on the same day. The deceased was travelling in a Maruthi Omni Van along Thamarassery-Kaithapoyil public road when he reached near a place called 'Maloram', a lorry bearing Reg.No.KL 11-A-8103 hit the car, on account of which the deceased sustained injuries.

2. The claim petition was filed seeking compensation to the tune of Rs. 7 lakhs. It was claimed that the deceased was a vegetable merchant earning a monthly income of Rs.8,000/-. He was aged 38 at the time of the accident. Reckoning his income @ Rs.3,000/- per month, the Tribunal awarded a total compensation of Rs.4,46,000/-.

3. We heard the learned counsel appearing on either side.

4. The Tribunal has awarded meagre amounts under the head of funeral expenses, loss of love and affection, loss of consortium etc.

In the light of the judgment of this Court in **Rajesh v. Rajbir Singh (2013 (3) KLT 89 (SC)**, we award a sum of Rs.25,000/- towards funeral expenses. Rs.1,00,000/- is granted towards loss of consortium and Rs.1,50,000/- for loss of love and affection. The claim of the appellants was that the deceased was a vegetable merchant earning Rs.8,000/- per month. The Tribunal has reckoned the income @ Rs.3,000/- alone. In the light of the judgment of the Supreme Court in **Syed Sadiq etc. v. Divisional Manager, United India Insurance Company (AIR 2014 SC 1052)** and having regard to the wage structure available at the relevant time, we reckon the income as Rs.5,000/- per month. Adopting a multiplier of 15 and deducting $\frac{1}{4}$ towards personal expenses, the compensation under the head of loss of dependency will come to Rs.6,75,000/- (5000 x 12 x 15 x $\frac{3}{4}$). The Tribunal has awarded a sum of Rs.5,000/- towards loss of estate, which we enhance to Rs.25,000/-. Thus the total compensation will be as follows :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Transport to hospital	1000
Funeral expenses	25000
Pain and suffering	10000
Loss of love and affection	150000
Loss of estate	25000
Loss of consortium	100000
Loss of dependency	675000
Total	986000 (Rupees nine lakh eighty six thousand only)

The award of the Tribunal is modified accordingly. The appellants will be entitled to interest @ 9% per annum for the enhanced compensation. The Insurance Company shall deposit the amount less the amount already deposited within a period of three months from the date of receipt of a copy of this judgment. The Tribunal shall recover the excess amount of court fee admissible to the enhanced compensation before disbursement of the amount. Out of the total compensation payable, the parents (appellants 1 and 2) will be entitled

to an additional amount of Rs.25,000/- from what was granted by the Tribunal.

The appeal is accordingly allowed

T.R.RAMACHANDRAN NAIR, JUDGE

P.V.ASHA, JUDGE

SV.