

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 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

MACA.No. 270 of 2014 ()

AGAINST THE AWARD IN OPMV 1439/2007 of M.A.C.T.,PERUMBAVOOR
DATED 30-05-2013

APPELLANT(S)/ORIGINAL PETITIONERS:

1. GIRISHKUMAR
S/O.LATE BHASKARA PILLAI, GHEGOMA HOUSE
EAST KADUNGALLUR, UC COLLEGE, P.O.ALUVA.

2. GOPAKUMAR,
S/O.BHASKARA PILLAI, RESIDING AT DO. DO.

3. MAHESH KUMAR,
S/O.BHASKARA PILLAI, RESIDING AT DO. DO.

BY ADVS.SRI.G.BALAMURALEEDHARAN (PARAVUR)
SRI.N.T.NANDAKUMAR (PARAVUR)

RESPONDENT(S):RESPONDENTS

1. C.N.ANIL
S/O.NANU, CHARUVAPARAMBU HOUSE, THIRUVALOOR
ALANGAD P.O., PIN-683511, PARAVUR TALUK
EKM DIST.

2. RADHEESH,
S/O.RAJAN, AYKATTUKUZHI HOUSE, KADUNGALLUR
ALANGAD P.O., PIN-683511, EKM DIST.

3. ORIENTAL INSURANCE CO.LTD.,
BRANCH OFFICE, PUMP JUNCTION, ALUVA P.O.
PIN-683101, EKM DIST.

R3 BY ADV. SRI.R.PADMARAJ
R BY SMT.K.S.SANTHI

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 12-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A No.270 of 2014

Dated this the 12th day of January, 2015

JUDGMENT

Ramachandran Nair, J.

The claimants before the Tribunal are the appellants herein. The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988, as legal heirs of deceased Lalithambika. The accident occurred on 24.07.2007 at 8.30 a.m. While she was walking along the road for reaching the temple nearby, the offending vehicle struck her. The accident resulted in serious injuries to her and she died on 06.08.2007 after 14 days. The major injury caused to her is the fracture to hip.

2. The Tribunal has granted a total compensation of Rs.79,119/- as against the claim of Rs.1,20,000/-.

3. The learned counsel for the appellants submitted that the amounts awarded towards pain and suffering, funeral expenses and the loss of dependency and love and affection are totally inadequate. The learned counsel for the respondent submitted that the deceased was aged 71 years and therefore

reasonable compensation has been awarded.

4. We find that the Tribunal has granted only Rs.3,000/- towards funeral expenses and in the light of the decision of the Apex Court in **Rajesh v. Rajbir Singh** [2013(3) KLT 89(S.C)], we award Rs.25,000/- for the same. The Tribunal has not granted anything towards bystander's expenses and we grant an amount of Rs.2,800/-, ie. @ Rs.200/- per day for 14 days. For transport to hospital only Rs.1,000/- has been granted which we enhance it to Rs.2,000/-. For pain and suffering, we are of the view that, a reasonable amount ought to have been granted. We award an amount of Rs.25,000/- towards pain and suffering. Accordingly, the award is modified as follows:

<i>Sl.No.</i>	<i>Head of Claim</i>	<i>Amount</i>
1	Funeral Expenses	Rs. 25,000.00
2	Transport to hospital	Rs. 2,000.00
3	Damage to clothing etc.	Rs. 500.00
4	Loss of dependency & love and affection	Rs. 30,000.00
5	Pain and suffering	Rs. 25,000.00
6	Medical expenses	Rs. 29,619.00
7	Bystander's expenses	Rs. 2,800.00
	TOTAL	Rs.1,14,919.00

(Rupees One lakh fourteen thousand nine hundred and nineteen only)

The appellants will be entitled to a total compensation of Rs.1,14,919/- (Rupees One lakh fourteen thousand nine hundred and nineteen only) from the date of petition along with 9% interest per annum . The Insurance Company is directed to deposit the entire amount of compensation within a period of three months from the date of receipt of a copy of this judgment, less the amount already deposited before the Tribunal and on such deposit being made, the claimants can withdraw the amount.

The appeal is allowed accordingly. No costs.

Sd/-

T.R.RAMACHANDRAN NAIR
Judge

Sd/-

P.VASHA
Judge

rtr/

/true copy/

P.S to Judge