

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

MACA.No. 416 of 2014 ()

**AGAINST THE AWARD IN O.P. (MV) No. 532/2008 of M.A.C.T., KOZHIKODE DATED
31-10-2011**

APPELLANT/3RD RESPONDENT :

THE ORIENTAL INSURANCE CO. LTD.
MANJERI, REPRESENTED BY ITS ASSISTANT MANAGER
REGIONAL OFFICE, ERNAKULAM NORTH, KOCHI-18.

BY ADVS.SRI.GEORGE CHERIAN (THIRUVALLA)
SMT.K.S.SANTHI

RESPONDENT(S)/CLAIMANTS :

1. BALAKRISHNAN
S/O. CHANTHUKUTTY, SWASTHAM, THARAYAPARAMBATH
AT PRESENT RESIDING AT PUTHUKULANGARA PARAMMEL HOUSE
MALIKADAVU POST, KOZHIKODE-673 001.

2. LEELA
W/O. BALAKRISHNAN, HOUSE WIFE, THARAYAPARAMBATH
AT PRESENT RESIDING AT PUTHUKULANGARA PARAMMEL HOUSE
MALIKADAVU POST, KOZHIKODE-673 001.

3. BINISHA
D/O. BALAKRISHNAN, THARAYAOPARAMBATH
AT PRESENT RESIDING AT PUTHUKULANGARA PARAMMEL HOUSE
MALIKADAVU POST, KOZHIKODE-673 001.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 26-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMACHANDRA MENON

&

ANIL K. NARENDRA, JJ.

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M.A.C.A. No. 416 of 2014

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Dated, this the 26th day of October, 2015

JUDGMENT

Ramachandra Menon, J.

This appeal has been preferred by the Insurance Company being aggrieved of the quantum of compensation awarded by the Tribunal in respect of the death of a person aged 21 years adopting the multiplier of '18' based on the age of deceased instead of considering the age factor of the parents.

2. The accident was occurred on 12.09.2007. The deceased was proceeding in his motorcycle bearing No. KL 01 Z 1930 through Palakkad - Kozhikkode road. When the motorcycle reached at the place of occurrence it collided with a bus bearing No. KL 09 K 7799 driven by the second respondent, owned by the first respondent and insured with the third respondent, causing fatal injuries to the deceased, who ultimately succumbed to the same. The loss was sought to be compensated by filing claim petition before the Tribunal by the parents and sibling.

3. After analysing the evidence on record, the negligence was fixed on the driver of the bus and the total compensation payable was worked out as Rs.4,14,900/-, which was directed to be satisfied with interest @ 7% p.a. from the date of filing the claim petition. Considering the age of the deceased as 21 years, based on the verdict passed by the Apex Court in **Sarla Verma Vs. Delhi Transport Corporation [2010 (2) KLT 802 (SC)]**, the Tribunal adopted the multiplier as '18'. Multiplicand was also fixed in the manner as declared by the Apex Court in the decision cited supra adding 50% to the monthly income towards the future prospects and thus working out the compensation under the head of loss of dependency as Rs.378000/-. The case projected by the appellant Insurance Company in the appeal was that the multiplier ought to have been reckoned on the basis of the age of the parents. Hence the appeal.

5. During the course of hearing, the learned senior counsel appearing for the appellant submits that the relevance of the age factor of the parents has been explained by the Apex Court in **Ashvinbhai Jayantilal Modi Vs. Ramkaran Ramchandra Sharma [(2015) 2 SCC 180]**, which has to be the basis for fixing the multiplier. The decision rendered by two member Bench in

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: 3 :

Sarla Verma's case (cited supra) was subsequently affirmed by 3 member Bench in **Reshma Kumari and Ors. Vs. Madan Mohan and another [(2013) 9 SCC 65]**. It is however seen that the decision rendered by 3 member Bench was never brought to the Bench of lesser configuration, while rendering the decision in **(2015) 2 SCC 180** (cited supra).

6. In view of the decision rendered by the Apex Court in **Reshmakumari's case** (cited supra), this Court finds that the appeal does not deserve any interference. Accordingly, interference is declined and the appeal stands dismissed.

sd/-

**P. R. RAMACHANDRA MENON,
JUDGE**

sd/-

**ANIL K. NARENDRA,
JUDGE**

kmd

/True copy/

P.A. to Judge