

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

MACA.No. 456 of 2014 ()

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AGAINST THE AWARD IN OPMV 784/2011 of PRL.M.A.C.T.,KOZHIKODE  
DATED 18-01-2013

APPELLANT(S)/PETITIONERS:

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1. PREMA, AGED 52 YEARS  
W/O.GOPALANKUTTY  
RESIDING AT VALIYOLIPADIKAL MEETHAL HOUSE  
PARANNUR POST, NARIKUNI VIA, MADAVOOR  
KOZHIKODE.
2. GEETHA, AGED 45 YEARS  
D/O.CHEKUTTY, RESIDING AT EDAVALATH MEETHAL HOUSE  
PARANNUR POST, NARIKUNI VIA, MADAVOOR  
KOZHIKODE.
3. ASHOKAN, AGED 41 YEARS  
S/O.CHEKUTTY, RESIDING AT NELLOOLIKANDIYIL HOUSE  
PALATH POST, CHELANNUR, KOZHIKODE.
4. SUDHA, AGED 36 YEARS  
W/O.HARIDASAN, RESIDING AT THAZHE PADARAMATH HOUSE  
CHATHAMANGALAM, POST NIT (REC), KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENT(S)/RESPONDENTS:

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1. ANEES V.M, AGED 24 YEARS  
S/O.AHAMMED KUTTY, RESIDING AT VADAKKE MEETHAL HOUSE  
NARIKKUNI POST, KOZHIKODE 673 585.
2. SIDHEEK ALI, AGE NOT KNOWN  
S/O.KUNHIMOOSA, RESIDING AT ODUNGATH HOUSE  
MADAVOOR POST, NARIKUNI VIA, KOZHIKODE 673 585.
3. THE ORIENTAL INSURANCE COMPANY LIMITED  
DIV. OFFICE NO.1, SEEMA BUILDING, G.H.ROAD  
CALICUT 673 001.

R-R3 BY ADV. SRI.P.V.JYOTHI PRASAD  
R BY SMT.K.S.SANTHI

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR  
ADMISSION ON 27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

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

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**M.A.C.A No.456 of 2014**  
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**Dated this the 27<sup>th</sup> day of January, 2015**

**JUDGMENT**

Asha, J.

The mother of the appellants, met with an accident on 13.02.2011, while she was travelling in a bus. She sustained severe injuries and she succumbed to the same in the Medical College Hospital, Kozhikode on the same day. She was aged 68 years. The claim petition was filed seeking compensation to the tune of Rs.4 lakhs. The Tribunal has awarded a total compensation of Rs.1,11,000/-.

2. The learned counsel for the appellants submitted that the amount awarded by the Tribunal on various heads are thoroughly inadequate and that the notional income reckoned by the Tribunal @ Rs.3,000/- per mensem is too low.

3. We heard the learned counsel for the Insurance company also, who opposed the claim for enhancement. His contention is that the deceased was aged 68 and was not an earning member and that appellants are not her dependants.

4. It may be true that the deceased was not an earning member. But the appellants lost their mother and hence the services of the mother, which is beyond valuation. We find that the Tribunal has reckoned notional income of the deceased @ Rs.3,000/- per mensem.  $\frac{2}{3}$ <sup>rd</sup> of the same is seen to have been deducted towards personal expenses and the compensation is awarded under the head loss of estate. Considering the money value at the relevant time, we are of the view that the notional income can be fixed @ Rs.3,500/- per mensem for the purpose of compensation towards loss of dependency.  $\frac{1}{3}$ <sup>rd</sup> of it is to be deducted towards personal expenses. Therefore, adopting the multiplier of 5, we assess the compensation under the head 'loss of dependency' as Rs.3,500/-X12X5X $\frac{2}{3}$ , which will come to Rs.1,40,000/-. The Tribunal has awarded only a sum of Rs.5,000/- towards funeral expenses. Going by the decision of the Apex Court in **Rajesh v. Rajbir Singh** [2013 (3) KLT 89 (S.C)], a sum of Rs.25,000/- is admissible under the above head. Therefore, we award Rs.25,000/- towards funeral expenses. No other modification is found necessary in view of the fact that the Tribunal has awarded just and reasonable compensation on all other heads.

5. Therefore, we modify the award as follows:

| <i>Sl.No.</i> | <i>Head of claim</i>                 | <i>Amt.</i>    |
|---------------|--------------------------------------|----------------|
| 1             | Transport to hospital                | Rs. 1,000.00   |
| 2             | Funeral expenses                     | Rs. 25,000.00  |
| 3             | Loss of dependency(Rs.3500X12X5X2/3) | Rs.1,40,000.00 |
| 4             | Pain and sufferings                  | Rs. 5,000.00   |
| 5             | Loss of love and affection           | Rs. 40,000.00  |
|               | TOTAL                                | Rs.2,11,000.00 |

(Rupees Two lakhs eleven thousand only)

6. The appellants will be entitled to a total compensation of Rs.2,11,000/- (Rupees Two lakhs eleven thousand only). The enhanced amount will carry interest @ 9% per annum. The Insurance Company is directed to deposit the entire amount of compensation within a period of three months, less the amount already deposited before the Tribunal and on such deposit being made, the claimants can withdraw the amount in tune with the directions of the Tribunal.

The appeal is allowed accordingly. No costs.

*Sd/-*  
**T.R.RAMACHANDRAN NAIR**  
**Judge**

*Sd/-*  
**P.VASHA**  
**Judge**

rtr/

/true copy/

P.S to Judge