

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

MACA.No. 256 of 2009 (F)

AGAINST THE AWARD IN OPMV 664/2005 of MACT VADAKARA DATED
11-07-2008

APPELLANT/PETITIONER:

AMAL, S/O. DECEASED PRAKASHINI,
AGED 9 YEARS (MINOR), D.O.B, 1412-98
REPRESENTED BY SUNIL KUMAR, S/O. CHEKKOOTTY
AGED 36 YEARS, HE IS THE GUARDIAN AND FATHER'S
BROTHER OF THE 1ST PETITIONER (MINOR CHILD), R/AT
AMMANAMKANDI HOUSE
P.O. ELATHUR, KOZHIKODE DISTRICT

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENTS/RESPONDENTS:

1. P.GOPALAN S/O. KANARAN,
KANNIKULATHIL HOUSE, MUCHUKUNNU P.O., KOYILANDY
KOZHIKODE DISTRICT.
(R.C. OWNER OF KL 11/M 6265 NO.BUS)

2. NEW INDIA ASSURANCE CO. LTD.,
SHAFEER COMPLEX, 6/975 D, OPP. Y.M.C.A.
KANNUR ROAD, CALICUT-673 001.

R2 BY ADV. SRI.P.JAYASANKAR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A.No.256 OF 2009

Dated this the 20th day of February, 2015

JUDGMENT

Asha, J.

Appellant is the minor child of deceased Prakasini, who met with an accident on 15.09.2005. The motor cycle on which the deceased Prakasini, her husband Sugathan and their another minor child was travelling was knocked down by another motor cycle. All of them succumbed to the injuries at the Medical College Hospital, Kozhikode.

2. The claim petition was filed seeking compensation to the tune of Rs. 6 lakhs. By a common award dated 11/07/2008, the Tribunal awarded a sum of Rs.3,25,000/- with interest @ 6% per annum. This appeal is filed seeking enhancement of compensation mainly on the ground that the income reckoned in the case of deceased was too low. It is also pointed out that the compensation awarded under other heads are inadequate.

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

4. It was claimed that deceased Prakasini was working as a tailor and it was claimed that she was having a monthly income of Rs.5,000/-. The Tribunal reckoned her monthly income as Rs.2,000/-. She was aged 34. Thus adopting a multiplier of 17, the Tribunal awarded a sum of Rs.2,72,000/- towards loss of dependency. In addition to that, Rs.2,000/- was awarded towards funeral expenses, Rs.1,000/- for transportation and Rs.50,000/- towards loss of love and affection. Thus a total compensation of Rs.3,25,000/- has been awarded.

5. We have already considered the case in respect of the death of the father of the appellant deceased Sugathan in M.A.C.A.No.258/2009. There we have awarded a sum of Rs.25,000/- towards funeral expenses. Therefore, we enhance the compensation under the head of funeral expenses to ₹ 5,000/- in place of ₹2,000/-. In view of the fact that the deceased was a tailor, we reckon her income @ ₹3,000/- per month. The proper multiplier to be adopted is 16. Therefore, the compensation under the head of loss of dependency will come to ₹3,84,000/- (3000 x 12 x 16 x 2/3). No amount has been

awarded by the Tribunal towards pain and suffering. Therefore, we award a sum of ₹10,000/- towards pain and suffering and a sum of ₹10,000/- towards loss of estate. We enhance the compensation awarded under the head of loss of love and affection to ₹1,00,000/-.

6. Accordingly, the award of the Tribunal is modified as follows :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Loss of dependency	384000
Transportation	1000
Loss of love and affection	100000
Loss of estate	10000
Funeral expensess	5000
Pain and suffering	10000
Total	510000 (Rupees five lakhs ten thousand only)

7. The enhanced compensation will carry interest @ 9% per annum from the date of petition. 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

same shall be deposited in a nationalised bank till the appellant attains majority.

The appeal is accordingly allowed. Parties shall bear their costs in the appeal.

T.R.RAMACHANDRAN NAIR, JUDGE

P.V.ASHA, JUDGE

SV.