

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. 258 of 2009 ()

AGAINST THE AWARD IN OPMV 897/2005 of MACT VADAKARA DATED
11-07-2008

APPELLANTS/CLAIMANTS:

1. YASODHA W/O. CHEKKOOTTY,
AGED 77 YEARS

2. AMAL S/O. DECEASED PRAKASHINI,
AGED 6 YEARS, (MINOR), D.O.B. 14.12.98
REP.BY SUNIL KUMAR S/O. CHEKKOOTTY, AGED 36 YRS
HE IS THE GUARDIAN AND FATHER'S BROTHER OF THE
2ND PETITIONER (MINOR CHILD), R/AT AMMANAMKANDI (H)
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.,
SHAFER 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.258 OF 2009

Dated this the 20th day of February, 2015

JUDGMENT

Asha, J.

Appellants are the mother and minor child of deceased Sugathan, who met with an accident on 15.09.2005. The motor cycle on which the deceased Sugathan, his wife Prakasini 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. 7 lakhs. By a common award dated 11/7/2008, the Tribunal awarded a sum of Rs.309,000/- with interest @ 6% per annum. This appeal is filed seeking enhancement of compensation mainly on the ground that the income reckoned 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. The Tribunal found that the deceased Sugathan was a

Mechanic by profession and he was conducting a motor work shop. The monthly income taken is only @ Rs.2,000/-. We find that the monthly income taken by the Tribunal is low. As the deceased was a skilled worker, having regard to the wage structure prevailing at the relevant time, we reckon his income @ Rs.4,000/- per month. He was aged 39 and therefore the compensation towards loss of dependency will come to Rs.4,80,000/- (4000 x 12 x 15 x 2/3).

5. It is seen that the Tribunal has not awarded any amount towards pain and suffering. We award a sum of Rs.10,000/- towards pain and suffering. The Tribunal has awarded a sum of Rs.2000/- alone towards funeral expenses. We enhance the same to Rs.25,000/-. The minor child and the mother lost the love and care of the deceased. Therefore we award a sum of Rs.1,00,000/- towards loss of love and affection. The Tribunal has not awarded any amount towards loss of estate. We award a sum of Rs.25,000/- under the said head.

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	480000

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Transportation	1000
Loss of love and affection	100000
Loss of estate	25000
Funeral expenses	25000
Pain and suffering	10000
Total	641000 (Rupees six lakhs forty one 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 total compensation will be apportioned among the appellants as directed by the Tribunal. The share admissible to the mother can be withdrawn as soon as the Insurance Company deposits the same. The share admissible to the minor shall be deposited in a nationalised bank till he attains majority.

The appeal is accordingly allowed.

T.R.RAMACHANDRAN NAIR, JUDGE

SV.

P.V.ASHA, JUDGE