

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 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

MACA.No. 783 of 2014 ()

AGAINST THE AWARD IN OPMV 625/2008 of M.A.C.T.,KOZHIKODE
APPELLANT(S)/PETITIONERS:

1. BEENA SABU AGED 38 YEARS
W/O. LATE SABU SAIMON, KANATHU HOUSE, RAROTH VILLAGE
THAMARASSERY P.O., KOZHIKODE DISTRICT
NOW RESIDING AT KANATU HOUSE, MEEMUTTY P.O.
NELLIPOYIL, KODENCHERRY, KOZHIKODE-673580.

2. ALOSHYA B.SAIMON AGED 18 YEARS
D/O. LATE SABU SAIMON, DATE OF BIRTH 18-10-1995
KANATU HOUSE, RAROTH VILLAGE, THAMARASSERY P.O.
KOZHIKODE DISTRICT, NOW RESIDING AT KANATU HOUSE
MEEMUTTY P.O., NELLIPOYIL, KODENCHERRY
KOZHIKODE-673580.

3. ABHAY S.SABU (MINOR) AGED 16 YEARS
S/O. LATE SABU SAIMON, DATE OF BIRTH 28-12-1998
KANATU HOUSE, RAROTH VILLAGE, THAMARASSERY P.O.
KOZHIKODE DISTRICT, NOW RESIDING AT KANATU HOUSE
MEEMUTTY P.O., NELLIPOYIL, KODENCHERRY
KOZHIKODE-673580
REP. BY MOTHER BEENA SABU 1ST APPELLANT.

4. ABHIN B.SABU (MINOR) AGED 11 YEARS
S/O. LATE SABU SAIMON, DATE OF BIRTH 03-05-2002
KANATU HOUSE, RAROTH VILLAGE, THAMARASSERY P.O.
KOZHIKODE DISTRICT, NOW RESIDING AT KANATU HOUSE
MEEMUTTY P.O., NELLIPOYIL, KODENCHERRY
KOZHIKODE-673580
REP. BY MOTHER BEENA SABU 1ST APPELLANT.

BY ADV. SMT.BINDU GEORGE

RESPONDENT(S) :

UNITED INDIA INSURANCE COMPANY LIMITED

R BY ADV. SRI.A.R.GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 13-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.783 of 2014

Dated this the 13th day of March, 2015

JUDGMENT

Asha, J.

The widow and three children of the deceased have approached this Court seeking enhancement in compensation. The deceased met with an accident on 5.6.2007 while he was riding a motor cycle which collided with another motor cycle. He succumbed to the injuries on the same day.

2. The claim petition was filed before the Tribunal seeking compensation to the tune of Rs.7,60,000/-. The Tribunal awarded a sum of Rs.4,76,000/- along with interest at 7%. Learned counsel for the appellants submitted that the income reckoned for the purpose of assessing compensation under the head of loss of dependency is too low and the amount awarded under various other heads are inadequate.

3. We heard learned counsel for the insurance company also.

4. The deceased was working as a Security Officer. It was claimed that he was earning a sum of Rs.10,323/- per month. But as per Ext.A9 certificate, the salary drawn by him is certified as Rs.5,167/- per month, on being employed for private security service. The Tribunal reckoned his income only at Rs.3,500/- per month. The deceased was aged 42 years. Therefore, the proper multiplier is 14. In view of the fact that the deceased was employed as a Security Officer and an Ex-serviceman, we fix the monthly income at Rs.5,000/-. Adopting the multiplier of 14 and after deducting 1/4th towards personal expenses, the compensation under the head of loss of dependency will come to Rs.6,30,000/- (Rs.5000/- x 12 x 14 x $\frac{3}{4}$). The Tribunal awarded a sum of Rs.3,000/- alone towards funeral expenses; Rs.10,000/- towards compensation for loss of love and affection; and Rs.5,000/- towards loss of consortium. In the light of the judgments of the Apex Court in **Rajesh v. Rajbir Singh** (2013 (3) KLT 89 - SC) and **Sabitha v. Binder Singh** {(2014) 4 SCC 505}, we enhance the compensation under these heads to Rs.25,000/-, Rs.1,50,000/- and Rs.1 lakh respectively. The Tribunal has awarded Rs.5,000/- alone towards

loss of estate which we enhance to Rs.35,000/-.

Therefore, the total compensation will be recomputed as follows:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Modified award passed by this Court (Rs)</i>
Transport to hospital	1500	1500
Damage to clothing	500	500
Pain and suffering	10000	10000
Funeral expenses	3000	25000
Loss of love and affection	10000	150000
Loss of consortium	5000	100000
Loss of dependency	441000	630000
Loss of estate	5000	35000
Total		952000

(Rupees Nine lakhs and fifty-two thousand only)

The enhanced amount of compensation will carry interest at the rate of 9% from the date of petition and the insurance company is directed to deposit the entire amount of compensation, less the amount already deposited before the Tribunal, within a period of three months.

The appeal is allowed as above. The parties will bear their costs in the appeal.

It is made clear that the appellants will not be entitled to get

interest for the period covered by the delay in filing the appeal, viz. for 1218 days.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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