

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

MACA.No. 808 of 2014 ()

AGAINST THE AWARD IN OPMV 301/2008 of M.A.C.T., KOLLAM
DATED 29-11-2013

APPELLANTS/APPLICANTS:

1. ARIFA BEEVI, AGED 63 YEARS
D/O.MARIYAN BEEVI AND W/O.LATE AUDBUL AZEEZ
M/O.DECEASED NOUSHAD, PUNNAVILA VEEDU, MYLAPOOR
UMAYANALLOOR P O, KOLLAM
2. SHAJILA, AGED 44 YEARS
D/O.ARIFA BEEVI AND S/O.THE DECEASED NOUSHAD
PUNNAVILA VEEDU, MYLAPOOR, UMayANALLOOR P O
KOLLAM
3. SHAJAHAN AGED 43 YEARS
S/O.THE LATE ABDUL AZEEZ AND BROTHER OF DECEASED NOUSHAD
PUNNAVILA VEEDU, MYLAPOOR, UMayANALLOOR P O
KOLLAM
4. HUSSAIBA AGED 41 YEARS
D/O.ARIFA BEEVI, S/O.DECEASED NOUSHAD, PUNNAVILA VEEDU
MYLAPOOR, UMayANALLOOR P O, KOLLAM

BY ADV. SRI.R.NIKHIL

RESPONDENT(S)/RESPONDENTS:

1. SAMEENA
PUTHEN VEEDU, SREEVILASOM NAGAR 34, VADAKKEVILA P O
KOLLAM-691010
 2. ANWAR
S/O.RASHEED, VALIYAKAYIKKARA PURAYIDOM
PALLITHOTTAM PO, KOLLAM-691006
 3. THE MANAGER
NATIONAL INSURANCE COMPANY LTD
PARAMESWARAN PILLAI BHAVAN, HOSPITAL ROAD
KOLLAM-691001
 4. SABEELA
D/O.ABOOBACKER, ELAYAVAYALIL ERAVIPURAM VILLAGE
VALATHUNGAL CHERRY, VALATHUNGAL P O, KOLLAM DIST
PIN-691011
- R3 BY ADV. SMT.SARAH SALVY
R BY SRI.M.A.GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:
RKC

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

M.A.C.A.No.808 of 2014

Dated this the 15th day of January, 2015

JUDGMENT

T.R.Ramachandran Nair, J.

The claimants before the Tribunal are the appellants. The son of the first appellant died in an accident on 21.2.2008. The other appellants are the sisters and the brother of the deceased. He was riding a motor cycle bearing registration No.KL-02-7463 along the Ayathil-Mevaram public road. At a place namely Mevara Bypass, a maruti car bearing registration No.KL-02_AA-924 which was coming in a very high speed hit deceased. He was taken to the N.S.Memorial Hospital, Palathara and thereafter he was taken to the District Hospital, Kollam where he succumbed to the injuries sustained. He was a loading and unloading worker earning ₹6,000/- per month.

2. As against the claim of ₹6,00,000/- the Tribunal has granted ₹2,58,000/-.

3. While awarding the amount, the Tribunal has taken his

M.A.C.A.No.808 of 2014

monthly income as ₹4,000/ and 50% has been deducted for personal expenses. The Tribunal has also awarded ₹25,000/- towards funeral expenses, ₹1,500/- towards transportation charges, ₹500/- towards damage to clothing and articles including damages to motor cycle, ₹10,000/- for loss of love and affection and ₹5,000/- towards loss of estate. ₹2,16,000/- was granted towards loss of dependency.

4. To prove the occupation and monthly earning PW3 was examined. He was the Secretary of the trade union, STU, who was a competent witness. The mother, first appellant was examined as PW1 and the 4th claimant was also examined as PW2.

5. The learned counsel submitted that for future prospects nothing has been granted by the Tribunal.

6. We find that as the deceased being a loading and unloading worker, ₹6,000/-claimed is reasonable, since the accident is of the year 2008. Evidence adduced before the Tribunal as PW3 was sufficient apart from the evidence of PWs 1 and 2. For future prospects, we have not added anything.

M.A.C.A.No.808 of 2014

7. The multiplier will be taken going by the age of the deceased in the light of the judgment in ***Sarala Verma and Others v. Delhi Transport Corporation and Others*** [2010 (2) KLT 802 (SC)]. Therefore we adopt the multiplier as 16.

8. Towards loss of love and affection we award ₹1,00,000/- and towards loss of estate we award ₹25,000/-. Nothing has been awarded towards pain and suffering of the deceased and we award ₹10,000/- since the death was on the same day. 1/3rd of the monthly income will have to be deducted for personal expenses of the deceased. Accordingly dependency compensation will be ₹6,000 X 12 X 16 X 2/3= ₹7,68,000/-.

9. The Tribunal has fixed the compensation in the following manner:

Head of claim	Amount awarded in rupees
Transportation to hospital	1,500/-
Damages to clothing and articles including damages to motor cycle KL-02-S-7463	500/-
Funeral expenses	25,000/-
Compensation for pain and suffering	Nil

M.A.C.A.No.808 of 2014

Head of claim	Amount awarded in rupees
Compensation for loss of love and affection	10,000/-
Compensation for loss of estate	5,000/-
Compensation for loss expectation of life	Nil
Compensation for loss of earning power and compensation for dependency benefit	2,16,000/-
TOTAL	2,58,000/-

10. We refix the compensation in the following manner:

Head of claim	Amount awarded in rupees
Transportation to hospital	1,500/-
Damages to clothing and articles including damages to motor cycle KL-02-S-7463	500/-
Funeral expenses	25,000/-
Compensation for pain and suffering	10,000/-
Compensation for loss of love and affection	1,00,000/-
Compensation for loss of estate	25,000/-
Compensation for loss expectation of life	Nil

M.A.C.A.No.808 of 2014

Head of claim	Amount awarded in rupees
Compensation for loss of earning power and compensation for dependency benefit	7,68,000/-
TOTAL	9,30,000/- (Rupees Nine lakhs thirty thousand)

The appeal is accordingly allowed and the insurance company will deposit the amount less the amount already deposited with interest @ 9% per annum. Before disbursing the amount the court fee for the amount awarded will be recovered by the Tribunal. No costs.

Sd/-

T.R.RAMACHANDRAN NAIR, JUDGE

Sd/-

P.V.ASHA, JUDGE

rkc.