

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.VASHA**

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

MACA.No. 980 of 2014 ()

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AGAINST THE AWARD IN OPMV 667/2009 of MACT, IRINJALAKUDA
DATED 8.11.2013**

APPELLANTS/PETITIONERS:-:

**1. JOHNY, AGED 58 YEARS
KOKKATTU HOUSE, PULLOOR-ANURULI SAMAJAM DESOM
PULLOOR VILLAGE AND P.O., MUKUNDAPURAM TALUK
THRISSUR DISTRICT.**

**2. JAREENA K.J., AGED 26 YEARS
D/O.JOHN, -DO- -DO-**

**3. JERISH K.J., AGED 24 YEARS
S/O.JOHN, -DO- -DO-**

**BY ADVS.SRI.P.V.BABY
SRI.A.N.SANTHOSH**

RESPONDENTS/RESPONDENTS:-:

**1. ANANDAN K.S.,
S/O.SUBRAN, KOLATHAPPULLY HOUSE, MURIYAD P.O.
MUKUNDAPURAM TALUK - 680 694.**

**2. BIJU,
S/O.BASKARAN, KUNDIL HOUSE, ANURULI-PULLOOR P.O.
MUKUNDAPURAM TALUK - 680 683.**

**3. THE NATIONAL INSURANCE CO.LTD.,
IRINJALAKUDA - 680 307.**

**R3 BY ADV. SRI.A.R.GEORGE
R1-R2 BY ADV. SRI.G.SREEKUMAR (CHELUR)
R1-R2 BY ADV. SRI.N.L.BITTO
R BY SRI.M.A.GEORGE**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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

M.A.C.A.No.980 OF 2014

Dated this the 17th day of March, 2015

J U D G M E N T

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**Ramachandran Nair, J.**

The appellants are respectively the husband and two children of the deceased. The accident occurred on 1.11.2007 when the victim, Smt.Annies, sustained injures while she was travelling in a motor cycle bearing Reg.No. KL-45/A 6315 through IrinJalakkuda - Brother mission road. Near Marina hospital, the vehicle skidded on the road and she was thrown away from the motor cycle. She sustained very serious head injuries and was immediately admitted in the Co-operative Hospital, Kolothumpady and and then to Daya hospital, Thrissur. While continuing under treatment, she died on 2.2.2008. It is submitted that she was inpatient for a period of 41 days and the death is after 94 days after the date of accident. Mainly it is contented by the learned counsel for the appellant that eventhough she was employed as helper in RCC work and Ext.A8 salary certificate was produced, the Tribunal

adopted only a monthly income only of Rs.3,500 instead of Rs.4500/-. It is also submitted that the compensation awarded for pain and suffering is inadequate and no amount has been granted towards loss of love and affection.

2. We heard the learned counsel for the Insurance Company, Sri.A.R.George, who supported the monthly income adopted for fixation of compensation and submitted that the compensation awarded is fair and reasonable.

3. As far as the monthly income is concerned, as the accident occurred in the year 2007 according to us Rs.4,000/- can be taken as the monthly income for fixing the quantum of compensation. The multiplier adopted by the Tribunal is 14 going by the age of the deceased. Therefore, the loss towards dependency will come to Rs.4,48,000/- instead of Rs. 3,92,000/- granted by the Tribunal. She was in the hospital for a continuous period of 41 days and thereafter the treatment continued. Therefore, for pain and suffering an amount of Rs.40,000 is granted. As far as loss of love is affection is concerned, Rs.1,00,000/- is granted. For loss of estate also we grant an amount of Rs.30,000/-. We enhance the amount

towards extra nourishment from Rs.500/- to Rs.3,500/-.

Therefore, the compensation is recomputed accordingly.

| <i>Head</i>                        | <i>Amount awarded by<br/>the Tribunal</i> | <i>Amount<br/>modified</i> |
|------------------------------------|-------------------------------------------|----------------------------|
| Loss of earning                    | -                                         | -                          |
| Funeral expenses                   | 25000                                     | 25000                      |
| Transportation expenses            | 2000                                      | 2000                       |
| Damage to clothing                 | 500                                       | 500                        |
| Extra nourishment                  | 500                                       | 3500                       |
| Bystander's expenses               | 10000                                     | 10000                      |
| Medical expenses                   | 93260                                     | 93260                      |
| Pain and sufferings                | 10000                                     | 40000                      |
| Loss of dependency                 | 392000                                    | 448000                     |
| Loss of estate                     | 10000                                     | 30000                      |
| Loss of expectation of life        | -                                         | -                          |
| Loss of consortium                 | 100000                                    | 100000                     |
| Loss of love and affection         | -                                         | 100000                     |
| Compensation for shock and anxiety | -                                         | -                          |
| <b>Total</b>                       | <b>6,43,260/-</b>                         | <b>8,52,260/-</b>          |

**(Rupees Eighty lakh fifty two thousand two hundred and sixty only)**

4. Therefore, the total compensation will be Rupees Eight lakh fifty two thousand two hundred and sixty only. The amount is apportioned in tune with the directions already issued by the award and the enhanced compensation will carry interest

at the rate of 9% per annum. There will be a direction to the Insurance Company to deposit the amount within a period of three months and we permit the claimants to withdraw the amount.

Accordingly, the appeal is allowed.

**Sd/-**

**T.R.RAMACHANDRAN NAIR,  
JUDGE.**

**sd/-**

**P.V.ASHA, JUDGE.**