

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH**

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

MACA.No. 1680 of 2011 ()

**AGAINST THE AWARD IN OP(MV) 1564/2007 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,
KOTTAYAM DATED 19-01-2011**

APPELLANTS/PETITIONERS:

- 1. SURESH K.D.,
KOCHUPARAMPIL, KOTTAYAM WEST P.O, KOTTAYAM.**
- 2. SUMA K.S.,
W/O SURESH K.D., OF -DO- -DO-.**

BY ADV. SRI.SURIN GEORGE IPE

RESPONDENTS/RESPONDENTS:

- 1. HUMAYOON KABEER,
THOTTATHIL (H), M.L.ROAD, KOTTAYAM.686 001**
- 2. SHERIL CHERIYAN,
VALIYAPARAMBIL (H), KUZHIMATTOM P.O, KOTTAYAM 686 014.**
- 3. THE ORIENTAL INDIA INSURANCE CO.LTD.
KOTTAYAM.686 001**

**R3(B/0) BY ADV. SRI. GEORGE CHERIAN
R BY SRI.GEORGE CHERIAN (THIRUVALLA)**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
20-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

T.R. RAMACHANDRAN NAIR & K.P. JYOTHINDRANATH, JJ.

M.A.C.A.No.1680 of 2011

Dated this the 20th day of August, 2015

J U D G M E N T

K.P. Jyothindranath, J.

This appeal is preferred by the claimants in O.P.(M.V.) 1564/2007 on the file of the Motor Accidents Claims Tribunal, Kottayam. The facts are as follows:

2. The claimants are the appellants. On 26.04.2007 at about 7.15 p.m. while the deceased Sumesh was travelling in a mini van bearing registration No.KL 9/L 4818 the said vehicle hit against a KSRTC bus and in that accident the deceased sustained fatal injuries and succumbed to the injuries. The appellants who are the parents of the deceased moved a claim petition before the Tribunal under Section 163(A) of the Motor Vehicles Act. The Tribunal awarded a total compensation of Rs.2,76,900/-. Aggrieved by the quantum of compensation awarded, this

appeal preferred.

3. When the appeal came up for hearing, the learned counsel for the appellants submitted before us that the compensation awarded is not in accordance with the schedule prescribed to Section 163 (A) of M.V.Act. It is the submission that on the ground that the deceased was a bachelor 50% of the compensation was deducted, which is not allowable as per law. It is also the submission that the Tribunal adopted a multiplier not considering the age of the deceased but the age of the parents. In this case even though the deceased was aged only 22 years the Tribunal considered a multiplier of 13, which was not in accordance with law.

4. We heard the learned counsel for the Insurance Company.

5. The learned counsel for the Insurance Company submitted before us that the Tribunal considered a notional income of the deceased and correctly adopted a multiplier system. The Tribunal only followed the various decision of

the Apex Court and an interference is not warranted.

6. After hearing the counsels, we perused the award. It is found that the schedule to Section 163(A) of M.V.Act is not followed in this case. Thus after considering all aspects it is found that it will be only just and proper to re-fix the compensation as per the schedule attached to Section 163(A) of M.V. Act.

7. Thus as per the schedule, the total compensation for a person of the age group in between 20 - 25 years having an annual income of Rs.40,000/- will be Rs.7,20,000/-, from which 1/3rd has to be deducted. The appellants also seen produced medical bills worth more than Rs.15,000/-. But the upper limit compensation that can be awarded on this head is Rs.15,000/-. As such, an amount of Rs.15,000/- is awarded towards medical expenses, a sum of Rs.2,000/- towards funeral expenses, and a sum of Rs.2,500/- towards loss of estate.

8. Thus, we re-fix the compensation in the following manner:

Head of claim	Amount re-fixed Rs.
Loss of dependency	7,20,000
After deduction 1/3 rd	4,80,000
Funeral expenses	2,000
Medical expenses	15,000
Loss of estate	2,500
Total	4,99,500

Thus, the appellants will be entitled for a total sum of Rs.4,99,500/- (Rupees four lakhs ninety nine thousand five hundred only).

9. The enhanced compensation will carry interest at the rate of 9% per annum from the date of petition till realisation.

10. There will be a direction to the Insurance Company to deposit the amount of compensation with interest, less the amount already deposited, before the Tribunal within a period of three months. On such deposit being made, the appellants will be entitled for the release of the amount.

The compensation shall be apportioned equally in

between the appellants.

The appeal is accordingly allowed. There will be no order as to costs in the appeal.

Sd/-
T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-
K.P. JYOTHINDRANATH
JUDGE

//True copy//

P.A. TO JUDGE

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