

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 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

MACA.No. 1729 of 2011 ()

AGAINST THE AWARD IN OPMV 521/2008 of M.A.C.T OTTAPALAM DATED
16-06-2011

APPELLANTS/PETITIONERS 1, 3 TO 6:

1. FATHIMA,W/O.LATE MUHAMMED@ KUTTIMANU
2. MAMMU,S/O.LATE MUHAMMED@ KUTTIMANU
3. MOIDEENKUTTY,
S/O.LATE MUHAMMED@KUTTIMANU
4. JAMEELA,
D/O.LATE MUHAMMED@KUTTIMANU
5. RASIYA,
D/O.LATE MUHAMMED @ KUTTIMANU

ALL ARE RESIDING AT KURUMBOTTUTHODI VEEDU
NELLAYA, OTTAPALAM TALUK, PALAKKAD DISTRICT

BY ADVS.SRI.T.C.SURESH MENON
SRI.JIBU P THOMAS
SRI.P.S.APPU
SRI.A.R.NIMOD
SRI.C.A.ANOOP

RESPONDENTS/RESPONDENTS/PETITIONERS 2 AND 7 :

1. RAJEEV,S/O.RAMAKRISHNAN,
RESIDING AT MANKOTIL HOUSE, "RAJEEV NIVAS", KODALUR
MELEPATTAMBI P.O, PALAKKAD DISTRICT 679306

2. THE ORIENTAL INSURANCE COMPANY LIMITED,
BRANCH OFFICE, PATTAMBI 679303

3. AZEEZ, S/O. LATE MUHAMMED @ KUTTIMANU,
RESIDING AT KURUMBOTTUTHODI VEEDU, NELLAYA P.O.
OTTAPALAM TALUK, PALAKKAD DISTRICT 679335

4. NABEESA,
W/O. LATE MUHAMMED @ KUTTIMANU
RESIDING AT ATTINGHAL VEEDU, P.O. THRIKKADEERI
OTTAPALAM TALUK, PALAKKAD DISTRICT 679502

5. SAIDALAVI,
S/O. LATE MUHAMMED @ KUTTIMANU
RESIDING AT KURUMBOTTUTHODI VEEDU, NELLAYA P.O.
PALAKKAD DISTRICT 679335

6. BASHEER,
S/O. LATE MUHAMMED @ KUTTIMANU
RESIDING AT KURUMBOTTUTHODI VEEDU, NELLAYA P.O.
OLLAPALAM TALUK, PALAKKAD DISTRICT 679335

R2 BY ADV. SRI.VPK.PANICKER

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.1729 OF 2011

Dated this the 19th day of March, 2015

JUDGMENT

Asha, J.

The widow and children of deceased Muhammed met with an accident on 2.1.2008 when he was walking through the side of Pattambi-Cherupulassery public road on being hit by a motor cycle. He succumbed to the injuries after being taken to Sevana Hospital, Pattambi.

2. The claim petition was filed seeking compensation to the tune of ₹5,00,000/-. The Tribunal awarded a sum of ₹1,44,000/-.

3. The learned counsel for the appellants submits that the amount awarded under various heads are thoroughly inadequate.

4. We heard the learned counsel for the Insurance Company who opposed the claim for enhancement.

5. The deceased was aged 65 years at the time of the accident. It is claimed that the deceased was a coolie earning ₹5,000/- per

month. The Tribunal reckoned his income @ ₹2,000/- per month. We are of the view that the income of the deceased can be reckoned as ₹3,000/-. Therefore, adopting the multiplier of 7 and deducting 1/3 towards personal expenses, the compensation under the head of loss of dependency will come to ₹1,68,000/- (3000 x 12 x 7 x 2/3).

6. The Tribunal has awarded a sum of ₹5,000/- alone towards funeral expenses which we enhance to ₹25,000/-. Towards loss of love and affection, a sum of ₹10,000/- has been awarded by the Tribunal. The widow and the children have lost the love of the husband/father. Therefore a sum of ₹50,000/- is awarded towards loss of love and affection. The Tribunal has granted a sum of ₹10,000/- towards loss of consortium. In view of the fact that the deceased was aged 65 years, we enhance the compensation to ₹35,000/-. We also enhance the compensation under the head of loss of estate to ₹10,000/-.

7. Accordingly, the award passed by the Tribunal is modified as follows :

<i>Head of claim</i>	<i>Amount awarded in rupees</i>
Transportation expenses	2000

<i>Head of claim</i>	<i>Amount awarded in rupees</i>
Loss of dependency	168000
Loss of consortium	35000
Loss of love and affection	50000
Loss of estate	10000
Funeral expenses	25000
Total	290000 (Rupees two lakhs ninety thousand only)

8. The enhanced amount 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 amount will be shared between the appellants in the ratio as prescribed by the Tribunal in the award.

The appeal is accordingly allowed.

T.R.RAMACHANDRAN NAIR, JUDGE

P.V.ASHA, JUDGE

SV.