

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

MACA.No. 1745 of 2011 ()

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AGAINST THE AWARD IN OPMV 946/2005 of M.A.C.T., THALASSERY DATED 26-02-2011
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APPELLANT(S):

- 1. VELLIKKAL SASEENDRAN,
AGED 51 YEARS, S/O.KUNHAN, MANDEN HOUSE
EDACHOVVA, P.O.CHOVVA, KANNUR**
- 2. MANDEN SULEKHA, AGED 40 YEARS
D/O.KARUVAN, MANDEN HOUSEEDACHOVVA, P.O.CHOVVA
KANNUR**
- 3. SHEEMA, AGED 22 YEARS
D/O.SASEENDRAN, MANDEN HOUSE, EDACHOVVA P.OCHOVVA
KANNUR**

**BY ADVS.SRI.K.C.SANTHOSHKUMAR
SMT.K.K.CHANDRALEKHA
SRI.GOPAKUMAR G. (ALUVA)**

RESPONDENT(S):

- 1. C.S.RAMAKRISHNAN,
CHAKKUPARAMBIL HOUSE, P.O.AVANUR
THRISSUR DISTRICT 680547**
- 2. THE MANAGER,
ROYAL SUNDARAN ALLIANCE INSURANCE CO.LTD46
WHITES ROAD, CHENNAI-600 014**
- 3. A.G.MANOJ KUMAR,
S/O.A.R.GOPALANARAKULATHIL HOUSE, P.O.PARAPPUR
THOLOOR, THRISSUR DISTRICT 680 552**

**R-2 BY ADV. SRI.MATHEWS JACOB (SR.)
BY ADV. SRI.P.JACOB MATHEW**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 11-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

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

M.A.C.A.No.1745 of 2011

Dated this the 11th day of August, 2015

JUDGMENT

T.R.Ramachandran Nair, J.

Consequent on the death of the son of appellants 1 and 2 and the younger brother of the third appellant, they approached the Tribunal by filing the application, seeking compensation to the tune of Rs.7,50,000/- which was limited to Rs.7,00,000/-. The Tribunal awarded an amount of Rs.3,50,500/-.

2. The facts in the case show that the deceased was an autorickshaw driver, aged 20 years at the time of accident. He was driving an autorickshaw bearing Registration No.KL 13/F 7651 from Thalassery to Kannur; when he reached near Dinesh Auditorium Junction, Kannur, a lorry bearing Registration No.KL 8/R 451 which came from the opposite direction hit against the autorickshaw. As a result, he sustained very serious

injuries and was taken to the A.K.G.Hospital, but he had succumbed to the injuries on the way to hospital.

2. Heard the learned counsel for the appellants Sri.K.C.Santhosh Kumar and learned Senior counsel for the Insurance company Sri.Mathews Jacob.

3. It is submitted by the learned counsel for the appellants that a wrong method was adopted by the Tribunal while fixing the compensation. It is submitted that the Tribunal fixed the multiplier as 13 and going by the judgment in **Sarala Verma v. Delhi Transport Co-operation** [2010 (2) KLT 802 (SC)], the age of the deceased has to be taken while assessing the compensation and for fixing the multiplier. It is also submitted that the monthly income was claimed at Rs.4,000/-, but the Tribunal calculated Rs.3,000/- as his monthly income. It is also submitted that the compensation awarded towards loss of love and affection and other expenses are not in tune with the judgments of the Apex Court and towards loss of estate only Rs.3,000/-

was granted and no amount is granted towards pain and suffering.

4. The learned Senior counsel for the Insurance company submitted that as far as the employment is concerned there is no evidence to prove the same. We find that the accident occurred at the time of driving the autorickshaw by the deceased himself and the same can be reckoned for the purpose of fixing the monthly wages and the employment.

5. Herein we adopt Rs.4,000/- as the monthly income, which is only a reasonable amount for the year 2004. But 50% has to be deducted for personal expenses in the light of the judgment in **Sarala Verma's** case (*supra*) as he was a bachelor. Going by the said judgment the multiplier is 18, which we adopt. We are also of the view that for funeral expenses Rs.25,000/-, for loss of estate Rs.30,000/- and for loss of love and affection Rs.1,00,000/- can be granted. For pain and suffering we are granting Rs.10,000/-, even though he died on the

same day. The compensation towards loss of dependency is arrived at by taking the income was Rs.4,000/-, after deduction of personal expenses as 50% and by taking multiplier as 18. We therefore re-fix the just and fair compensation as follows.

Head of Claim	Amount Awarded in Rupees
(a)Transportation expenses	Rs.1,000/-
(b) Loss of dependency (4000x12x18x1/2)	Rs.4,32,000/-
(c) Loss of love and affection	Rs.1,00,000/-
(d) Loss of estate	Rs.30,000/-
(e) Funeral expenses	Rs.25,000/-
(f) Pain and suffering	Rs.10,000/-
(g) Damage to clothing	Rs.2000/-
Total	Rs.6,00,000/- (Rupees Six lakhs only)

6. The enhanced compensation will bear 9% interest from the date of petition. Insurance company shall deposit the amount within three months of this order. The apportionment of the enhanced compensation will be as per the ratio fixed by the Tribunal in Paragraph 20 of the award, which we confirm. We permit the appellants to withdraw the amount.

In the light of the above findings,
M.A.C.A.No.1745/2011 is allowed. Parties will bear their
cost in the appeals.

Sd/-
T.R.RAMACHANDRAN NAIR,
JUDGE

Sd/-
K.P.JYOTHINDRANATH,
JUDGE

VS

/TRUE COPY/

PA TO JUDGE