

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 FEBRUARY 2015/30TH MAGHA, 1936

MACA.No. 1747 of 2011 ()

AGAINST THE AWARD IN OPMV 459/1999 of MACT, MAVELIKKARA DATED
30-12-2010

APPELLANTS/PETITIONERS 2 AND 3:

1. SATHYAMMA,
KOCHUPARAMBIL VEEDU, MAVELIKKARA WARD II
FROM KADAVANESHATHU VEEDU, PANMANA, WARD VIII
KARUNAGAPALLY

2. ARUNKUMAR,
KOCHUPARAMBIL VEEDU, MAVELIKKARA WARD II
FROM KADAVANESHATHU VEEDU, PANMANA, WARD VIII
KARUNAGAPALLY

BY ADVS.SRI.GEORGE VARGHESE (PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SMT.NAVA VARGHESE

RESPONDENTS/RESPONDENTS:

1. A.ASHARAF,
NAHAZ MANZIL, PALLANA P.O, THRIKKUNNAPUZHA 690 515

2. THE DIVISIONAL MANAGER,
NATIONAL INSURANCE CO.LTD;KOLLAM 691 001

R2 BY ADV. SRI.M.A.GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A.No.1747 OF 2011

Dated this the 19th day of February, 2015

JUDGMENT

Ramachandran Nair, J.

In this appeal by the appellants, who are claimants before the Tribunal, are challenging the quantum of compensation. Against the total amount claimed at Rs.4,56,500/-, the Tribunal has granted a total compensation of Rs.2,18,000/-.

2. The deceased late Sri.Ajith Kumar sustained injuries in an accident which occurred on Kollam-Alappuzha road on 07/03/1999 at about 6.30 a.m. He was travelling in an autorickshaw and the offending vehicle, a Tata Sumo bearing Reg.No.KL-4E-4066 hit the same. He succumbed to the injuries later. It was claimed that the deceased was aged 26 and was a qualified Electrician and Ext.A14 is the copy of the National Trade Certificate. The Tribunal fixed the monthly income at Rs.3,000/- for fixing the contribution to the family as against the claim of Rs.4,000/-.

3. We reproduce below the table under which amounts have been granted by the Tribunal :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Damage to clothing	500
Pain and suffering	5000
Medical expenses	2500
Loss of dependency	198000
Love and affection	5000
Transportation & ambulance charge	3000
Funeral expenses	4000
Total	218000

4. The learned counsel for the appellants submits that the claim of the appellants for fixing the monthly income at Rs.4,000/- ought to have been allowed. It is also submitted that the compensation awarded towards pain and suffering, loss of love and affection and funeral expenses is too low and no amount has been granted towards loss of estate.

5. The learned counsel for the Insurance Company submits that fixation of monthly income is perfectly in order as the accident occurred in the year 1999.

6. It is not the case of the appellants that the deceased was earning on a regular scale of pay and it is pointed out that he was self employed. Therefore we find that the monthly income fixed by the Tribunal is reasonable. But the multiplier adopted by the Tribunal is incorrect. It is taken as 11 considering the age of the first petitioner before the Tribunal namely the father of the deceased. In the light of the judgment of the Apex Court in **Sarla Verma v. Delhi Transport Corporation (2010(2) KLT 802 (SC)**, the age of the deceased will have to be reckoned . Going by the said judgment, the multiplier is 17.

7. We therefore are of the view that the compensation will have to be recomputed and due amounts will have to be awarded towards loss of dependency, funeral expenses and loss of estate.

8. Accordingly, we refix the compensation in the following manner :

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Damage to clothing	500
Pain and suffering	5000
Medical expenses	2500

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Loss of dependency	306000 (3000 x 12 x 17 x 50%)
Love and affection	100000
Transportation & ambulance charge	3000
Funeral expenses	25000
Loss of estate	25000
Total	467000 (Rupees four lakhs sixty seven thousand only)

9. The enhanced amount will carry interest @ 9% per annum.

We direct the Insurance Company to deposit the amount within a period of three months. The compensation amount shall be shared in between the appellants in the ratio of 80:20. The parties will suffer their costs in the appeal.

The appeal is accordingly allowed.

T.R.RAMACHANDRAN NAIR, JUDGE

P.V.ASHA, JUDGE

SV.