

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

MACA.No. 1750 of 2011 ()

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AGAINST THE AWARD IN OPMV 1353/2005 of M.A.C.T., THALASSERY
DATED 12-11-2010
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APPELLANT(S)/PETITIONERS :

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- 1. RADHA P.K. AGED 55 YEARS,
PATHINARAMMURIYIL HOUSE, NATASSERY
SECRED HEAR MOUNT, P.O. KUMARANELLUR
KOTTAYAM DISTRICT.**
 - 2. B. SANTHOSH, S/O.BHARATHAN,
AGED 36 YEARS, PATHINARAMMURIYIL HOUSE, NATASSERY
SECRED HEAR MOUNT, P.O. KUMARANELLUR
KOTTAYAM DISTRICT.**
 - 3. B.SUNIL KUMAR, S/O. BHARATHAN,
AGED 32 YEARS, PATHINARAMMURIYIL HOUSE, NATASSERY
SECRED HEAR MOUNT, P.O. KUMARANELLUR
KOTTAYAM DISTRICT.**
 - 4. SATHI ASHOKAN, W/O. ASHOKAN,
AGED 37 YEARS, VALIYAVEEDU, ORUVATHIKOTTA
ANAYARA P.O., THIRUVANANTHAPURAM DISTRICT.**
 - 5. SHUBHA SUNIL, W/O.SUNIL,
AGED 29 YEARS, PARITHIPALLIYIL HOUSE, VELLAKINARVADU
ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.V.A.SATHEESH
SRI.V.T.MADHAVANUNNI**

RESPONDENT(S)/DEFENDANTS:

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- 1. PONNARALA RAVEENDRAN, S/O NARAYANAN,
AGED 41 YEARS, ALAPARAMBA AMSOM, KURUVILELI
RESIDING AT KURUMATHOOR, THANIKUNNU P.O.
KANNUR DT. 670 142.**

2. K.P.SHADULI, S/O.MUHAMMED, ALAKKANDY,
K.P. HOUSE, KURUMATHUR P.O., TALIPARAMBA TALUK
KANNUR DT.- 670 140.

3. THE BRANCH MANAGER,
UNITED INDIA INSURANCE COMPANY LTD., BRANCH OFFICE
KANNUR-670001.

R3 BY ADV. SRI.SIBY MATHEW
ADV. SRI.JOHN JOSEPH VETTIKAD B/O
ADV. SRI.PHILIP J.VETTICKATTU
ADV. SRI.B.PREMNATH (E)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 31-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

VS

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

M.A.C.A.No.1750 of 2011

Dated this the 31st day of August, 2015

JUDGMENT

T.R.Ramachandran Nair, J.

This appeal is filed by the claimants who are the widow and children of Late Sri.Bharathan. The accident occurred on 07.07.2005 at Kanhirangad. The claimants claimed a total compensation of Rs.5,00,000/- and the Tribunal awarded a compensation of Rs.3,01,800/-.

2. The present appeal is concerned only with the quantum of compensation. Mainly it is contended that the deceased was a Sawing Machine Operator and was having a salary of Rs.5,000/- which is supported by Ext.A7. But the Tribunal fixed only at Rs.3,000/- as the monthly income of the deceased. It is also submitted that for pain and sufferings no amount is granted and the amount granted for loss of consortium, loss of love and affection and funeral expenses are liable to be enhanced,

in the light of the decision of the Apex Court in **Rajesh v. Rajbir Singh** reported in 2013 (3) KLT 89. It is also submitted that the deceased was only aged 52 years at the time of accident and total number of claimants is 5. Therefore $\frac{1}{4}^{\text{th}}$ alone can be deducted for personal expenses of the deceased.

3. We have heard learned counsel for the Insurance Company who supported the award.

4. According to us, the monthly income claimed at Rs.5,000/- is reasonable. The accident occurred on 07.07.2005. It cannot be said that this amount of claim is exorbitant for a job of sawing machine operator. In the light of the decision in **Sarala Varma v. Delhi Transport Corporation** reported in 2010 (2) KLT 802 for the number dependents 4 to 6, $\frac{1}{4}^{\text{th}}$ of the income will have to be deducted for personal expenses of the deceased. The multiplier going by the said judgment will be 11. We also are of the view that the amount awarded towards loss of consortium at Rs.5,000/- and loss of love and affection(Rs.10,000/-) require enhancement by

granting of Rs.1,00,000/- each. For loss of estate we grant an amount of Rs.40,000/- and for funeral expenses we fix an amount of Rs.25,000/-. Therefore the total compensation will be as follows.

Head of Claim	Amount awarded in Rupees
(a) Loss of dependency (5000x12x11x4/5)	Rs.5,28,000/-
(b) Pain and Sufferings	Rs.10,000/-
(c) Medical Expenses	Rs.12,800/-
(d) Transportation expenses	Rs.5,000/-
(e) Loss of consortium	Rs.1,00,000/-
(f) Loss of love and affection	Rs.1,00,000/-
(g) Loss of estate	Rs.40,000/-
(h) Funeral expenses	Rs.25,000/-
Total	Rs.8,20,800/- -(Rupees Eight lakhs twenty thousand and eight hundred only)

5. Therefore the total compensation is Rs.8,20,800/-(Rupees Eight lakhs twenty thousand and eight hundred only). The enhanced compensation will bear 9% interest per annum from the date of filing the petition. The insurance company is found liable by the Tribunal, which we confirm. 50% of the enhanced compensation with interest is awarded in favour of the widow, namely appellant No.1 and the balance amount

with interest will be shared equally by the appellant Nos.2 to 5. Appellants will also pay Court fee for the amount of compensation fixed by this Court. It will be collected by the Tribunal after the deposit of the enhanced compensation by the insurance company. The insurance company will deposit the amount within a period of three months and we permit the appellants to withdraw the amount.

The appeal is allowed accordingly. Parties will suffer their costs in the appeal.

Sd/-
T.R.RAMACHANDRAN NAIR,
JUDGE

Sd/-
K.P.JYOTHINDRANATH,
JUDGE

VS

/TRUE COPY/

PA TO JUDGE

