

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 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

MACA.No. 823 of 2009 ()

AGAINST THE AWARD IN OPMV 814/2004 of MACT, IRINJALAKUDA DATED
05-11-2008

APPELLANTS/PETITIONERS IN OP(MV):

1. POULOSE, F/O LATE PAUL @ PAULACHAN
PALATHATTIL HOUSE, KONOOR DESOM, MURINGOOR-
THEKKUMMURI VILLAGE, NALUKETTU P.O.
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

2. ROSA POULOSE, W/O. POULOSE,
PALATHATTIL HOUSE, KONOOR DESOM, MURINGOOR-
THEKKUMMURI VILLAGE, NALUKETTU P.O.
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

3. JOSEPH S/O. POULOSE,
PALATHATTIL HOUSE, KONOOR DESOM, MURINGOOR-
THEKKUMMURI VILLAGE, NALUKETTU P.O.
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

4. ANNIE D/O. POULOSE,
PALATHATTIL HOUSE, KONOOR DESOM, MURINGOOR-
THEKKUMMURI VILLAGE, NALUKETTU P.O.
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

5. ROSILY, D/O. POULOSE,
(W/O. VADAKKEPURATHAN JOSE, AYYAMPUZHA P.O.)
PALATHATTIL HOUSE, KONOOR DESOM, MURINGOOR-
THEKKUMMURI VILLAGE, NALUKETTU P.O.
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

6. THOMAS S/O. POULOSE,
PALATHATTIL HOUSE, KONOOR DESOM, MURINGOOR-
THEKKUMMURI VILLAGE, NALUKETTU P.O.
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

7. SEBASTIAN S/O. POULOSE,
PALATHATTIL HOUSE, KONOOR DESOM, MURINGOOR-
THEKKUMMURI VILLAGE, NALUKETTU P.O.
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

8. VARGHESE S/O. POULOSE,
PALATHATTIL HOUSE, KONOOR DESOM, MURINGOOR-
THEKKUMMURI VILLAGE, NALUKETTU P.O.
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

BY ADVS.SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENT)/RESPONDENTS IN OP (MV) :

1. R.KERALAN, S/O RAMASWAMY
21/493, WEST VENNAKKARA, PALAKKAD.

2. KUMAR S/O. SOMASUNDARAN,
DOOR NO.6/98, ERULAPETTI, THIRUMALAIPETTI P.O.
NAMAKKAL.

3. UNITED INDIA INSURANCE CO. LTD.,
BRANCH OFFICE, NAMAKKAL.

R3 BY ADV. SRI.P.V.JYOTHI PRASAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 30-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.823 OF 2009

Dated this the 30th day of June, 2015

JUDGMENT

Jyothindranath, J.

The appellants are the claimants in O.P.(MV) No.814/2004. They are aggrieved by the award passed by the Tribunal in the above said claim petition. The facts in a nut shell is that the deceased Paulachan was a whole sale lottery ticket vendor, who met with a road traffic accident on 2.4.2004 and succumbed to the injuries. He was aged 29 years and was having a monthly income of Rs.3,300/- per month. A claim petition was moved under Section 163A of Motor Vehicles Act by the appellants who are the parents, brothers and sisters of the deceased. It is the submission that the Tribunal deviating from the schedule, adopted a multiplier of 5 and the income considered is only as Rs.2250/-. The submission is that considering the fact that the deceased was a whole sale lottery ticket agent, Rs.3,300/- should have been taken. There is force in the submission of the learned counsel for the appellants.

2. After going through the award, it is found that the compensation is awarded only to the parents. Even though the appeal is preferred by all the petitioners including brothers and sisters, it is a fact that they are not dependents of the deceased. Thus, we feel that an interference on that aspect is not warranted.

3. The next aspect is regarding the quantum. Surely the claim is under the structural formula. The case of the appellants is that the deceased was a whole sale lottery ticket agent. In the structural formula, the maximum income that can be considered is Rs.3,300/- ie. the structural formula is meant for economically backwards. Considering the totality of the case, it is found that an income of Rs.3,300/- can be adopted in this case. As per the structural formula, the total compensation available will be Rs.6,80,000/-. 1/3 has to be deducted from this amount towards personal expenses. Thus the amount will come to Rs. 4,53,333/-. Apart from this, the appellants are also entitled for Rs.4,500/- towards funeral expenses and loss of estate. Thus, the total compensation that can be awarded is Rs.4,57,833/- which is rounded off to Rs.4,57,830/-. Appellants 1 and 2 are entitled

for the said amount. The enhanced amount shall also be shared as ordered by the Tribunal. The enhanced compensation will carry interest @ 9% per annum from the date of petition. The Insurance Company shall deposit the amount within three months from the date of receipt of a copy of this judgment.

The appeal is accordingly allowed. The parties shall bear their costs in the appeal.

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH, JUDGE

SV.