

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. 1898 of 2011 ()

AGAINST THE AWARD IN OPMV 34/2009 of M.A.C.T OTTAPPALAM DATED
14-07-2011

APPELLANTS/PETITIONERS:

1. RAVEENDRAN @ THANKAMANI,
DAILY LABOURER, S/O.LATE KUNJAN, THEKKEKARA HOUSE
P.O.ATTOOR, CHERUTHURUTHY, THRISSUR.

2. KAMALAM,
W/O.RAVEENDRAN @ THANKAMANI
DO. DO.(MOTHER OF LATESUNILKUMAR @ NARAYANAN) .

3. SUBHADRA @ AMMUKUTTY,
D/O.RAVEENDRAN @ THANKAMANI
DO. DO.(SISTER OF LATESUNILKUMAR @ NARAYANAN) .

BY ADV. SRI.P.V.CHANDRA MOHAN

RESPONDENTS/RESPONDENTS:

1. N.K.CHANDRASEKHARAN,
S/O.KUTTIKRISHNAN NAIR, 9/69, KUNNATHUPULIYAKKOD HOUSE
(KRISHNAKRIPA), THOTTEKKARA, OTTAPALAM
PALAKKAD DISTRICT, PIN-678001.

2. VINODKUMAR,
S/O.GANGADHARAN, MOLUKURISSI, THOTTAKKARA
OTTAPPALAM, PALAKKAD-679101.

3. THE NEW INDIA ASSURANCE CO.LTD.,
JRJ COMPLEX, OTTAPALAM-679101.

R3 BY ADV. SRI.PMM.NAJEEB KHAN

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

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

M.A.C.A.No.1898 OF 2011

Dated this the 11th day of August, 2015

JUDGMENT

Ramachandran Nair, J.

The claimants before the Tribunal are the appellants herein. They are the parents and unmarried sister of late Sunil Kumar @ Narayanan who died in a motor accident on 31.1.2008. The deceased was riding a motor cycle and it was hit by a car. He sustained very serious injuries and was admitted in the Medical College Hospital, Thrissur and he succumbed to the injuries on 6.2.2008. The Tribunal found that the driver of the car was negligent and proceeded to consider the assessment of compensation. The total claim was ₹8,87,000/-. It was contended that the deceased was a jewellery worker and was earning ₹6,000/- per month. The multiplier going by the discussion in paragraph 9 of the award was adopted as 7 by taking the age of the parents .

2. We heard the learned counsel for the appellants Sri.P.V.Chandramohan and the learned counsel for the Insurance

Company Sri.P.M.M.Najeeb Khan.

3. According to the learned counsel for the appellants, the deceased was a jewellery worker and was earning ₹6,000/- per month which is only moderate. But the Tribunal fixed it at ₹3,500/- which is too low. It is also submitted that the multiplier going by the judgment in **Sarla Varma v. Delhi Transport Corporation (2010 (2) KLT 802 (SC)** will be 17 and it is settled by the legal principles stated therein that the multiplier will have to be adopted in tune with the age of the deceased and not that of the parents.

4. The learned counsel for the Insurance Company submits that the monthly income calculated is perfectly in order.

5. There are three claimants including the sister who is remaining unmarried. Being a bachelor, $\frac{1}{2}$ of the income will have to be deducted towards the personal expenses of the deceased. As regards the monthly income, ₹6,000/- claimed is only reasonable as the deceased was a jewellery worker. Even though the learned counsel for the Insurance Company submits that no documentary evidence has been produced to prove the same, being a self employed person, it cannot be proved by any documentary evidence also. Going by the fact

that the accident occurred in the year 2008 and even if he is considered as a daily wage employee, ₹6,000/- claimed will not be exorbitant. Therefore, we fix the monthly income as ₹6,000/- and 50% will have to be deducted also. He was in the hospital upto 6.2.2008 and we fix an amount of ₹15,000/- towards pain and suffering. Towards funeral expenses, we grant an amount of ₹25,000/- and for loss of love and affection also, we grant ₹1,00,000/-.

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

<i>Head of claim</i>	<i>Amount Awarded in rupees</i>
Medical expenses	2000
Bystander's expenses	1000
Transportation	2500
Pain and suffering	15000
Loss of dependency	612000 (6000 x 12 x 17 x ½)
Funeral expenses	25000
Loss of love and affection	100000
Loss of estate	30000
Total	787500 (Rupees seven lakhs eighty seven thousand five hundred only)

7. The enhanced compensation will carry interest @ 9% per annum from the date of petition. The Insurance Company was found liable by the Tribunal and we confirm the said finding. The Tribunal has apportioned 50% of the compensation to the mother appellant No.2, 30% to the father, appellant No.1 and remaining 20% to the sister, appellant No.3. We maintain the said ratio itself for apportioning the enhanced compensation also. There will be a direction to the Insurance Company to deposit the amount of compensation with interest less the amount already deposited before the Tribunal within three months and we permit the appellants to withdraw the amount also.

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

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH,JUDGE

SV.