

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 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

MACA.No. 951 of 2009 ()

**AGAINST THE AWARD IN OP(MV) 261/2004 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,
IRINJALAKUDA DATED 31-10-2008
APPELLANTS/PETITIONERS IN O.P.(MV):**

- 1. KORAN, PAYYAKKAL HOUSE, KUTTIPPURAM DESOM
VADAKKUMKARA VILLAGE, VELLANGALLUR P.O.
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.**
- 2. KARTHYAYNI, W/O. PAYYAKKAL KORAN,
KUTTIPPURAM DESOM, VADAKKUMKARA VILLAGE
VELLANGALLUR P.O., MUKUNDAPURAM TALUK, THRISSUR DISTRICT.**
- 3. GIRIJAN, S/O. PAYYAKKAL KORAN,
KUTTIPPURAM DESOM, VADAKKUMKARA VILLAGE
VELLANGALLUR P.O., MUKUNDAPURAM TALUK, THRISSUR DISTRICT.**

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

RESPONDENTS/RESPONDENTS IN O.P.(M.V.):

- 1. ROSY KURIAN, W/O. VAREKKULAM KURIAN
KANJOOR P.O.**
- 2. SEBI KURIAN, S/O. VAREKKULAM KURIAN,
CHENGAL KARA, KANJOOR VADAKKUMBHAGAM VILLAGE.**
- 3. NEW INDIA ASSURANCE CO. LTD.,
PERUMBAVOOR.**

**R1-2 BY ADV. SRI.JESWIN P.VARGHESE
R3 BY ADV. SRI.P.G.GANAPPAN**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
23-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

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

M.A.C.A.No.951 of 2009

Dated this the 23rd day of June, 2015

J U D G M E N T

K.P. Jyothindranath, J.

This is an appeal filed by the claimants in O.P.(M.V.) No.261/2004 on the file of the Motor Accidents Claims Tribunal, Irinjalakuda. The grievance of the appellants is that even though the claim was under Section 163(A) of the Motor Vehicles Act, the Tribunal not awarded compensation as required under the statute. The deceased was a mason by profession. The Tribunal only took a notional income of Rs.2,000/-. The grievance is that as the accident occurred in the year 2003, the Tribunal should have taken Rs.3,300/- as income for calculation under the structured formula.

2. We heard the learned counsel for the Insurance Company also.

3. As per the table in II Schedule, Rs.6 lakhs will be the maximum compensation that can be awarded taking the

age factor, out of which, 1/3rd has to deducted for his personal expenses. On this count the amount will be Rs.4 lakhs. Apart from this, the appellants will be entitled for a sum of Rs.2,500/- on the head of loss of estate and another sum of Rs.2,000/- for funeral expenses. Thus the total amount of compensation entitled for the appellants is Rs.4,04,500/- (Rupees four lakhs four thousand five hundred only).

4. The compensation will carry interest at the rate of 9% from the date of petition till realisation and it is made clear that the whole amount of compensation will carry interest at the rate of 9%. The enhanced compensation also will be shared as directed by the Tribunal.

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 a period of three months and we permit the claimants to withdraw the amount when the amount is deposited by the Insurance Company.

The appeal is accordingly allowed. There will be no order as to costs in the appeal.

Sd/-

T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-

K.P. JYOTHINDRANATH
JUDGE

//True copy//

P.A. TO JUDGE

shg/