

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

MACA.No. 1300 of 2009 ()

AGAINST THE AWARD IN OPMV 2455/1999 of M.A.C.T.,KOZHIKODE DATED 20-02-2008

APPELLANT(S)/PETITIONER::

S.VIJAYALAKSHMI, AGED 27 YEARS,
W/O.LATE RAJENDRAN, HOUSE NO.5/70A

BY ADV. SRI.JACOB ABRAHAM

RESPONDENT(S):RESPONDENTS

1. K.C.ISMAILUTTY, S/O.MOIDEEN HAJI,
KUNNATH CHALIL HOUSE, NAIRKUZHI POST, VIA.REC
PELLAKODE AMSOM PAZHOOR DESOM, KOZHIKODE.

2. THE NEW INDIA ASSURANCE CO.LTD.,
POOTHERI BUILDING, FEROKKE, KOZHIKODE.

R,R2 BY ADV. SRI.P.K.BABU

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

M.A.C.A.No.1300 of 2009

Dated this the 28th day of January, 2015

JUDGMENT

Asha, J.

The deceased met with an accident on 30.6.1999 while he was walking along the Road Junction Hospital, Calicut - Medical College Road. The offending vehicle came in a rash and negligent manner and knocked him down. He sustained very serious injuries and succumbed to the injuries on the same day at the Medical College Hospital, Kozhikode. The widow along with the parents of the deceased filed a claim petition seeking compensation to the tune of Rs.3 Lakhs.

2. During the pendency of the claim petition, the mother passed away. The Tribunal awarded a sum of Rs.1,33,200./- in favour of the widow. The widow has approached this Court seeking enhancement of compensation, on the ground that the amount awarded towards various heads are thoroughly inadequate and the income taken is only at

Rs.900/- per month.

3. The deceased was doing the business of selling clay vessels. It was claimed that he was earning a sum of Rs.3,000/- per month. He was aged 35 years. Adopting the multiplier as 16 and reckoning the monthly income at Rs.900/-, the Tribunal awarded a sum of Rs.1,15,200/- towards dependency compensation. Towards loss of consortium a sum of Rs.10,000/- alone was granted. Towards funeral expenses, a sum of Rs.2,000/- alone was granted. We find that the amount awarded towards loss of consortium and funeral expenses are liable to be enhanced to Rs.1 Lakh and Rs.25,000/- respectively, in the light of the decision of the Apex Court in **Rajesh v. Rajbir Singh** (2013 (3) KLT 89 - SC). Regarding the monthly income of the deceased, we fix the same at Rs.1,500/- considering the wages prevailing at the relevant time. Therefore, the compensation towards loss of dependency will come to Rs.1,92,000/- ($1500 \times 12 \times 16 \times \frac{2}{3}$). Towards compensation for pain and suffering, a sum of Rs.5,000/- has been granted already and a sum of Rs.1,000/- was granted as transportation charges. It is seen that the accident occurred at Calicut and the body was taken to the place of residence of the deceased in

Kanyakumari District in Tamil Nadu. Therefore, we enhance the compensation for transportation charges, to Rs.3,000/-.

The appeal is, therefore, allowed and the award is modified in the following manner:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Modified award passed by this Court (Rs)</i>
Dependency	115200	192000
Consortium	10000	100000
Pain and suffering	5000	5000
Funeral expenses	2000	25000
Transportation charges	1000	3000
Total	133200	325000

(Rupees Three Lakhs and twenty-five thousand only)

The above amount will carry interest at the rate of 9% in the light of the judgment of the Apex Court in **Supeidei (Smt) and others v. National Insurance Company Ltd. And others** {(2009) 4 SCC 513}. The insurance company shall deposit the entire amount less the amount already deposited before the Tribunal, within a period of three months.

No costs.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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