

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

MACA.No. 177 of 2008

AGAINST THE AWARD IN OPMV 1325/2000 of M.A.C.T.,
PALAKKAD.

APPELLANT(S)/APPELLANTS/PETITIONERS:

1. MOHAMMED NOOR,
S/O HAJI P.M.SYED MOHAMMED, AVANASI HOUSE, MAMPRA,
KODUNTHARAPPULLY P.O., PALAKKAD.

2. SIRAJUNNESA, W/O MOHAMMED NOOR,
AVANASI HOUSE, MAMPRA, KODUNTHARAPPULLY P.O.
PALAKKAD.

3. MUJAMMLE @ MUSAMMLE,
S/O MOHAMMED NOOR, REPRESENTED BY FATHER
1ST APPELLANT, AVANASI HOUSE, MAMPRA,
KODUNTHARAPPULLY P.O., PALAKKAD.

BY ADV. SRI.A.R.GANGADAS

RESPONDENT(S)/RESPONDENTS:

1. V.P.ABDUL BASHEER,
S/OKUNHI MUHAMMED, 416/57 M.M.K.STREET,
VALIYAPEECHIYAKKAL HOUSE, THOZHUVANNUR P.O.,
VALANCHERY, MALAPPURAM DIST.

2. T.A.SAINUDEEN, S/O ABOOBACKER,
PALLIYALIL HOUSE, VENDALUR ROAD, KOZHIKOTTAPADI,
ERAMPILIYAM P.O., VALANCHERY, MALAPPURAM DIST.

3. THE ORIENTAL INSURANCE CO. LTD.,
K.H.BUILDINGS, THAZHEPALAM, TIRUR,
MALAPPURAM DIST.

R3 BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP
FOR ADMISSION ON 05-10-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

**P.R. RAMACHANDRA MENON &
K. HARILAL, JJ.**

M.A.C.A. No.177 of 2008

Dated this the 5th day of October, 2015

JUDGMENT

Ramachandra Menon, J.

The inadequacy of the compensation in respect of the death of the minor son of the 1st and 2nd appellants and sibling of the 3rd appellant forms the subject matter of challenge in this appeal.

2. The accident occurred on 31/5/2000 when the deceased, a minor boy aged 11 years, was travelling on a bicycle ridden by his friend. While so, a lorry bearing Registration No.KL-10/4050 owned by the 1st respondent, driven by the 2nd respondent and insured by the 3rd respondent, knocked him down causing fatal injuries, ultimately leading to his death. This

led to the claim petition filed by the parents and sibling before the Tribunal seek for compensation of ₹2,98,000/-.

3. After considering the facts and circumstances, the Tribunal fixed the negligence on the part of the driver of the lorry and awarded compensation under various heads reckoning notional income of ₹15,000/- and adopting a multiplier of '15'. The total compensation awarded by the Tribunal amounts to ₹1,95,000/- which was directed to be satisfied with interest at the rate of 6% per annum. Since the policy was admitted, the due amount was directed to be deposited by the Insurance Company.

4. Heard both the sides.

5. Considering the facts and figures and also that the accident occurred was in the year 2000, this Court finds that the course pursued by the Tribunal in working out the extent of compensation cannot be deprecated; particularly with regard to the loss of dependency. However, this Court finds that only a

sum of ₹25,000/- has been awarded towards love and affection. In the decision reported in Rajesh v. Rajbir Singh [2013 (3) KLT 89 (SC)] , the Apex Court made it clear that a sum of ₹1 lakh can be awarded towards love and affection. But the accident in the said case was of the year 2007; whereas in the instant case, it was on 31/5/2000. Considering the money value and such other relevant aspects, we find that loss of love and affection requires to be compensated to an extent of ₹50,000/-, thus resulting a balance amount of ₹25,000/-. It is also seen that no amount has been awarded by the Tribunal towards transportation and such other incidental expenses. We grant a sum of ₹2,000/- under this head. Interest awarded by the Tribunal is only at the rate of 6% per annum. As a matter of fact, at the relevant time, the proper rate of interest ought to have been 7.5%. Subsequently, it has been made clear by the Supreme Court in various decisions that the interest payable is 9%. In such circumstance, to strike a balance, this Court finds that

the entire award shall carry interest at the rate of 8% per annum. Since the policy is admitted, the total amount of ₹2,22,000/- (₹1,98,000/- + ₹27,000/-) is required to be satisfied with interest at the rate as mentioned above. The enhanced compensation with interest and the deficit interest on the amount already awarded by the Tribunal shall be deposited by the 3rd respondent/Insurance Company, within a period of one month from the date of receipt of a copy of this judgment.

This appeal is disposed of accordingly.

Sd/-

(P.R. RAMACHANDRA MENON, JUDGE)

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge