

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT:  
THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON  
&  
THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

MACA.No. 1536 of 2009 ( )  
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AGAINST THE AWARD IN OPMV 1519/2006 of M.A.C.T.,KOZHIKODE DATED  
18-10-2008

APPELLANT(S)/PETITIONER IN OP(MV):  
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1. KARTHYAYANI, W/O.(LATE) PACHUKUTTY,  
KIZHAKKEKALATHIL MEETHAL HOUSE, UMMALATHOOR THAZHAM  
MLA ROAD, NEAR NANGOLATH BHAGAVATHI KSHETHRAM  
P.O.MEDICAL COLLEGE, KOZHIKODE.

2. SIVADASAN, S/O.(LATE) PACHUKUTTY,  
KIZHAKKEKALATHIL MEETHAL HOUSE, UMMALATHOOR THAZHAM  
MLA ROAD, NEAR NANGOLATH BHAGAVATHI KSHETHRAM  
P.O.MEDICAL COLLEGE, KOZHIKODE.

3. HARIDASAN, S/O.(LATE) PACHUKUTTY,  
KIZHAKKEKALATHIL MEETHAL HOUSE, UMMALATHOOR THAZHAM  
MLA ROAD, NEAR NANGOLATH BHAGAVATHI KSHETHRAM  
P.O.MEDICAL COLLEGE, KOZHIKODE.

4. VALSALA, W/O.PRABHAKARAN,  
KIZHAKKEKALATHIL MEETHAL HOUSE, UMMALATHOOR THAZHAM  
MLA ROAD, NEAR NANGOLATH BHAGAVATHI KSHETHRAM  
P.O.MEDICAL COLLEGE, KOZHIKODE.

5. SREEJA, W/O.BABURAJ,  
KIZHAKKEKALATHIL MEETHAL HOUSE, UMMALATHOOR THAZHAM  
MLA ROAD, NEAR NANGOLATH BHAGAVATHI KSHETHRAM  
P.O.MEDICAL COLLEGE, KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENT(S)/RESPONDENTS IN OP(MV):  
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1. SULAIMAN, S/O.AHAMMEDKOYA,  
VELUTHAPARAMBIL HOUSE, P.O.VYDIARANGADI, RAMANATTUKARA  
KOZHIKODE.

2. MUHAMMED BASHEER, S/O.MOOSA,  
FAZEELA MANZIL, P.O.PUTHUKODU, MALAPPURAM.

3. ORIENTAL INSURANCE COMPANY LIMITED,  
DIVISIONAL OFFICE, SEEMA BUILDING, G.H.ROAD  
KOZHIKODE.

R3 BY ADV. SRI.MATHEWS JACOB (SR.)

R3 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR  
ADMISSION ON 07-10-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

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

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**M.A.C.A.No. 1536 of 2009**  
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**Dated this the 7<sup>th</sup> October, 2015**

**JUDGMENT**

**Ramachandra Menon, J.**

Loss resulted because of the death of an octogenarian having crossed the aged of 82 years in a road traffic accident was sought to be compensated by filing the claim petition. Inadequacy of the compensation awarded by the Tribunal limiting the same to ₹63,500/- made the appellant to approach this Court by filing this appeal.

2. Heard learned counsel for the appellants as well as the learned Senior Counsel appearing for the third respondent Insurance Company.

3. The accident occurred on 12.5.2006, when the deceased, who was proceeding along the road, was knocked down by a lorry bearing registration

No.KL-11-T-2673 owned by the first respondent and insured by the third respondent. This was sought to be compensated by filing claim petition seeking for compensation of ₹2,00,000/-. The evidence adduced before the Tribunal consists of Exhibits A1 to A3. The Tribunal held, based on the materials available on record, that the accident was occurred solely because of the negligence on the part of the driver of the lorry.

4. The first appellant/first claimant is the widow. Others appellants are children of the deceased. For loss of dependency the Tribunal has awarded a sum of ₹50,000/-, which appears to be in order. The amount awarded by the Tribunal under the head 'consortium' is ₹10,000/-. A sum of ₹1,000/- was awarded for transportation and ₹2,500/- towards funeral expenses. The total sum of ₹62,500/- was ordered to be satisfied with interest at the rate of 7% per annum from 6.10.2006 onwards. This is stated as inadequate in the appeal.

5. After hearing both sides, we find that no amount has been awarded by the Tribunal towards pain and suffering, though the same was instantaneous. We find that **₹5,000/-** is sufficient for this head. We award the same accordingly. Similarly, no amount is awarded by the Tribunal towards loss of love and affection. Considering the totality of the facts and circumstances, we award a sum of **₹50,000/-** under this head. The loss of consortium has been compensated to ₹10,000/-, as far as the first applicant/first appellant is concerned. We find it proper to have the same enhanced to a further sum of **₹5,000/-**. Coming to the amount awarded for the funeral expenses, admittedly, the accident was in the year 2006 and only a sum of ₹2,500/- was awarded. We find it appropriate to fix the compensation under this head as ₹10,000/- and this results in a balance figure of **₹7,500/-**. The total balance amount of compensation payable as ₹62,500/- (rupees sixty two thousand and five hundred only) which shall be satisfied with interest at 9% per annum from the date of

filing the claim petition till the satisfaction. Since the policy is admitted, we direct the Insurance Company to deposit the said amount within one month from the date of receipt of a copy of this judgment.

Appeal is disposed of as above.

**P.R.RAMACHANDRA MENON  
JUDGE**

**K.HARILAL  
JUDGE**

vgs7/10/15