

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

MACA.No. 268 of 2008 ()

AGAINST THE AWARD IN OPMV 3260/1999 of M.A.C.T.,ERNAKULAM DATED 16-04-2007

APPELLANTS/PETITIONERS:

1. K.VELAYUDHA MENON,
AGED 65 YEARS, S/O. RAMAN MENON.

2. E.V.BINDHU, AGED 38 YEARS,
D/O. K.VELAYUDHA MENON.
BOTH APPELLANTS ARE RESIDING AT KUNNETH HOUSE
(VADEKKATTU) EROOR SOUTH P.O., TRIPUNITHURA.

BY ADVS.SRI.ANIL S.RAJ
SMT.K.N.RAJANI
SMT.MANJUSHA MOHANDAS
SMT.ANILA PETER

RESPONDENT(S) :

1. THE MANAGING PARTNER, M/S.QUICKSELL,
THOPPUMPADY, COCHIN 682 005.
2. THOMAS HEROLD,S/O.JOSEPH HEROLD
C/O.KOCHUKURUMBAN, KADEPPILLY HOUSE,
KADEPPILLY BHAGOM
KADUNGALLUR VILLAGE, ALUVA.
3. THE UNITED INDIA INSURANCE COMPANY
LIMITED, REPRESENTED BY ITS DIVISIONAL MANAGER
COCHIN 682 016.
4. THE NATIONAL INSURANCE COMPANY LIMITED
TRIPUNITHURA.

R,R3 BY ADV. SMT.M.LALITHA NAIR
R,R4 BY ADV. SRI.P.JAYASANKAR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
10-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMACHANDRA MENON

&

BABU MATHEW P. JOSEPH, JJ.

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M.A.C.A. No. 268 of 2008

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Dated, this the 10th day of August, 2015

JUDGMENT

Ramachandra Menon, J.

Inadequacy of the compensation awarded by the Tribunal in respect of death of the wife of the first appellant and the mother of the second appellant is the subject matter of challenge in this appeal.

2. The deceased wife of the first appellant and the mother of the second appellant was riding on the scooter driven by her husband/first appellant on 21.10.1999. When the deceased was proceeding as above, a tempo van owned by the first respondent, driven by the second respondent and insured with the 3rd respondent came from behind and hit on the scooter causing fatal injuries to pillion rider. The injured was hospitalised. Despite the treatment for four days, life could not be saved and she succumbed to the injuries. This led to the claim petition preferred by the appellants before the Motor Accidents Claims Tribunal.

3. It is contended that the deceased was working as Postal Assistant in the Central Government and her superannuation was on

31.01.2008. She was about 51 years at the time of accident and was drawing a salary of Rs.5,131/-, as evident from Ext.A8.

4. The policy stands admitted. In the said circumstances, the total liability was fixed as Rs.3,79,814/- and the same was ordered to be satisfied by the Insurance Company after deducting the interim award already granted with interest @ 7.5 %, which is sought to be enhanced by the appellants.

5. Heard the learned counsel for the appellants as well as the learned counsel appearing for the 4th respondent Insurance Company i.e. insurer of the scooter.

6. Since the policy stands admitted, this Court does not find it necessary to complete service of notice to the respondents 1 and 2 and the same is dispensed with.

7. After hearing and considering the available materials on record, this Court finds that the multiplier adopted by the Tribunal in the case of death of the deceased aged at 51 years was '8', which ought to have been '11'. We order the same accordingly. On reworking the compensation as above, the

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appellants are entitled for a total amount of Rs.4,51,528/- [Rs.5131 x 11 x 12 x 2/3] for loss of dependency. Thus, the appellant is entitled to get a balance sum of **Rs.1,23,144/-** [Rs.4,51,528 - Rs.3,28,384] under this head. It is seen that the various amounts were awarded by the Tribunal under the following heads :

Transportation Expenses	:	Rs. 2,500/-
Funeral Expenses	:	Rs. 2,500/-
Pain and suffering	:	Rs.10,000/-
Loss of estate	:	Rs. 10,000/-
Loss of consortium	:	Rs. 10,000/-

Considering the facts and circumstances, it is found that the amount awarded towards the funeral expenses should be raised by **Rs.2,500/-** more. Loss of consortium awarded only to an extent of Rs.10,000/-, which we enhance to Rs.50,000/- thus resulting in a balance of **Rs.40,000/-**. It is seen that no amount is awarded towards the loss of affection to the second appellant. Since the accident was in the year 1999, we fix the same as **Rs.30,000/-**. On reworking the compensation as

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above, the balance payment to be effected in respect of the death of the deceased is **Rs.1,95,644/- (Rupees One lakh Ninety five thousand Six hundred and Forty four only)**, which is rounded as **Rs.1,96,000/-**. The said amount shall be satisfied with interest @ 9% p.a. from the date of filing of claim petition before the Tribunal. Since the policy is admitted, the amount of **Rs.1,96,000/- (Rupees One lakh Ninety Six thousand only)** with interest as mentioned above shall be satisfied by the 3rd respondent Insurance Company within one month from the date of receipt of a copy of this judgment.

The appeal stands disposed of as above.

sd/-

**P. R. RAMACHANDRA MENON,
JUDGE**

sd/-

**BABU MATHEW P. JOSEPH,
JUDGE**

kmd