

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 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

MACA.No. 1344 of 2010 ()

AGAINST THE AWARD IN OPMV 851/2004 ON THE FILE OF THE MOTOR ACCIDENTS
CLAIMS TRIBUNAL,ERNAKULAM DATED 30-01-2010

APPELLANT/PETITIONER:

1. RAMAKRISHNAN I.S,S/O.SANKARAN,
ILLIPARAMBIL HOUSE, C/O.NERICHANDRA PARAMBU
PERANDOR ROAD, ELEMAKKARA, COCHIN-26.

2. SUNEETHI RAMAKRISHNAN, W/O.RAMAKRISHNAN
ILLIPARAMBIL HOUSE, -DO-DO-

BY ADVS.K.JANARDHANAN
SRI.MANURAJ. K.J

RESPONDENTS/RESPONDENTS:

1. P.A.RAMLA, 23/685 A,KNP ROAD,
PALLURUTHY, COCHIN-682006

* 2. BAIJU MATHEW, KOCHIKODE VEETIL,
WEST OF MUNIPARAKUNNU SIVA TEMPLE, KANAKAPUZHA KARA
UDUMBANCHOLA TALUK, IDUKKI., 685554 [8DELETED]

3. NATIONAL INSURANCE CO.LTD.,
M.G.ROAD, ERNAKULAM, KOCHI-16

R,R3 BY ADV. SRI.MATHEWS JACOB (SR.)
R,R3 BY ADV. SRI.P.JACOB MATHEW

*[RESPONDENT NO.2 IS DELETED FROM THE PARTY ARRAY AT THE RISK
OF THE PETITIONER VIDE ORDER DATED 26.9.14 IN I.A. 2736/14 IN
M.A.C.A. 1344/2010]

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 14-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AL/-

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

M.A.C.A. No.1344 of 2010

Dated this the 14th day of January 2015

JUDGMENT

Asha, J.,

This appeal is filed for enhancement of compensation on the death of son of the appellants who succumbed to injuries in a motor accident which occurred on 7.12.2003, while he was driving an Omni van bearing registration No. KL-7/AP 8508. The Tribunal awarded compensation to the tune of Rs.2 lakh.

2. The deceased succumbed to the injuries in the accident on the same day. Admittedly, he was working as the driver of the Omni van. The income claimed before the Tribunal was Rs. 3,500/- per month. The Tribunal awarded compensation reckoning Rs. 2,500/- as the monthly income.

3. Learned counsel for the appellants submitted that the compensation awarded by the Tribunal under various heads are thoroughly inadequate.

4. We heard the learned counsel for the appellants and

learned counsel for the Insurance Company. It is pointed out that the Tribunal granted compensation under the head of loss of consortium also even though the deceased was a bachelor.

5. We find that the income of the deceased can be fixed at the rate of Rs. 3,500/- as claimed by the claimants in the claim petition, having regard to the wage structure in respect of drivers. As deceased was a bachelor 50% of his income has to be deducted towards personal expenses. The Tribunal has adopted the multiplier as 11. The deceased was only aged 25 and the correct multiplier will be 18 going by the decision reported in ***Sarala Varma v. Delhi Transport Corporation [2010 (2) KLT 802]***. Therefore, the compensation towards loss of dependency will be Rs. $3,500 \times 12 \times 18 \times 1/2 = 3,78,000/-$.

7. Towards transportation and funeral expenses, the Tribunal was granted only a sum of Rs. 5,000/-. Towards love and affection, Rs. 10,000/- was only granted. Going by the decision of the Apex Court reported in *Rajesh v. Rajbir Singh* (2013 (3) KLT 89 (SC) , we enhance the compensation towards loss of love and affection to Rs.1,00,000/- and towards funeral expenses to Rs.25,000/-.

M.A.C.A. No.1344 of 2010 :3:

8. We find that compensation under the head loss of consortium cannot be granted. Therefore, the amount of Rs.10,000/- awarded under this head is deleted from the award.

9. Under the head of loss of estate, the Tribunal has awarded only Rs. 5,000/-. We refix the same as Rs. 15,000/-. The award is accordingly, modified.

<i>Sl.No.</i>	<i>Heads</i>	<i>Amt. Awarded</i>	<i>Modified award</i>	<i>basis</i>
1	Transportation & funeral expenses	5000	25000	
2	Shock pain and sufferings	5000	5000	
3	Loss of dependency	1,65,000	378000	
4	Loss of consortium	10000	-	
5	Loss of love and affection	10000	100000	
6	Loss of estate	5000	15000	
	Total		523000/-	

The appellant will be entitled to a total compensation of Rs. 5,23,000/-.

10. The Tribunal has granted interest only at the rate of 7.5% p.a. In the light of the judgment of the apex court in **Supei Dei(Smt.) & Ors. v. National Insurance Co. Ltd. and Anr.** [(2009)4 SCC 513], we fix the interest at the rate of 9% p.a from the date of petition.

M.A.C.A. No.1344 of 2010 :4:

11. The Insurance Company is directed to deposit the entire amount, less the amount already deposited, within a period of three months from the date of receipt of a copy of this judgment. The Insurance Company is permitted to recover the amount from the 1st respondent, as done by the Tribunal.

The appeal is allowed accordingly. No cost.

**T.R.RAMACHANDRAN NAIR
(JUDGE)**

**P.V.ASHA
(JUDGE)**

AL/-

M.A.C.A. No.1344 of 2010 :5:

FAIR COPY JJ