

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

MACA.No. 2232 of 2014 ()

(AGAINST THE AWARD IN OPMV 1551/2013 of M.A.C.T.,KOZHIKODE
DATED 04-06-2014)

APPELLANT(S)/PETITIONERS:

1. REENA, AGED 32 YEARS,
W/O (LATE) VINODKUMAR.

2. VARSHA (MINOR) AGED 8 YEARS,
DOB 19.08.05

3. VYGA (MINOR) AGED 6 YEARS
DOB 15.06.2011

(MINORS ARE REPRESENTED BY THEIR
MOTHER AND NEXT FRIEND REENA)

4. SADANANDAN, AGED 61 YEARS,
S/O (LATE) SANKUNNI NAIR

5. SOUMINI, AGED 57 YEARS,,
W/O SADANANDAN, ALL RESIDING AT KALIDASAM
EDASSERYKANDY PARAMBA, PO PERUMANNA, KOZHIKODE

BY ADVS.SRI.AVM.SALAHUDIN
SMT.EMIL STANLEY

RESPONDENT(S)/3RD RESPONDENT:

ROYAL SUNDARAM ALLIANCE INSURANCE CO.LTD.
M SONS ARCADE, 4TH FLOOR, CHEROOTTY ROAD
KOZHIKODE - 673 004.

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

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

MACA. No. 2232 OF 2014

Dated this the 24th day of February, 2015

JUDGMENT

Asha,J.

The appellants are the widow, two minor children and parents of the deceased Vinodkumar who met with an accident on 17/4/2013 and succumbed to the injuries. While the deceased was driving an omni van bearing registration No. KL-01-Q-93778, a jeep hit on the van causing very serious injuries to the deceased. The deceased was taken to the Medical Hospital, Kozhikode, where he died. The claim petition was filed before the Tribunal seeking compensation of Rs.15,00,000/-. The Tribunal awarded an amount of Rs.11,67,500/- along with interest at the rate of 8% p.a.

2. Aggrieved by the inadequacy of the award of the Tribunal, the appellant filed this appeal seeking enhancement of compensation. It is submitted that the deceased was

earning a monthly income of Rs. 50,000/- out of his business,viz. manufacturing of gate & grill, shutter and truss work etc. But, due to lack of evidence, the Tribunal reckoned the notional income of the deceased only at Rs.5,000/-.

3. We heard the learned senior counsel appearing for the Insurance Company, who objected the claim for enhancement. It is pointed out that the Tribunal has reckoned Rs.5,000/- as monthly income and 30% of the same was added towards future prospects despite the fact that there was no evidence adduced by the appellants in order to prove the income. We find merits in the contention raised by the learned counsel for the Insurance Company.

4. It is seen that the Tribunal has awarded a sum of Rs. 50,000/- only towards loss of consortium. According to us, the amount awarded by the Tribunal towards loss of consortium is not reasonable. In the light of the Judgment of the Supreme Court in **Rajesh v. Rajbir Singh(2013 (3) KLT 89(SC))** a sum of Rupees One Lakh is admissible to the widow towards loss of consortium. In this case the widow is aged 31 years at the

time of the fatal accident. Therefore, in the light of that decision, we award Rs.1,00,000/- towards loss of consortium to the widow.

5. Thus, the impugned award of the Tribunal stands modified, details of which are given in the following table:

<i>Sl.No.</i>	<i>Head of the claim</i>	<i>Amount awarded by the Tribunal (in Rupees)</i>	<i>Amount awarded by this Court (in Rupees)</i>
1	Transportation to hospital	1,000/-	1,000/-
2	Damage to clothings and articles	1,000/-	1,000/-
3	Funeral Expenses	25,000/-	25,000/-
4	Loss of Estate	8,000/-	8,000/-
5	Loss of consortium	50,000/-	1,00,000/-
6	Loss of love and affection	2,00,000/-	2,00,000/-
7	Pain & sufferings	5,000/-	5,000/-
8	Loss of dependency	8,77,500/-	8,77,500/-
9	total	11,67,500	12,17,500/-(Rupees Twelve Lakhs Seventeen Thousand Five Hundred only)

6.The total compensation awarded to the appellants is Rs.12,17,500/- (Rupees Twelve Lakhs Seventeen thousand Five Hundred only). Enhanced compensation will carry interest at the rate of 9% from the date of the petition. Insurance Company is

directed to deposit the amount within a period of three months.

The appeal is allowed to the above extent. Parties will suffer their costs.

Sd/-

**T.R.RAMACHANDRAN NAIR,
Judge.**

**Sd/-
P.V.ASHA,
Judge.**

dpk

/True copy/ PS to Judge.

