

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

MACA.No. 2355 of 2014 ()

AGAINST THE AWARD IN OPMV 1593/2005 of MACT (ADDL. DISTRICT &
SESSIONS JUDGE - III), MAVELIKKARA DATED 9.4.2014

APPELLANT(S)/PETITIONERS 1 AND 3 :-

1. THULASI AMMA
KALAPURACKAL VEEDU, THULAMPARAMBU THEKKUM MURI
HARIPAD.
2. BEENA RANI
KALAPURACKAL VEEDU, THULAMPARAMBU THEKKUM MURI
HARIPAD.

BY ADVS.SRI.GEORGE VARGHESE (PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SRI.MANU SEBASTIAN

RESPONDENT(S)/RESPONDENTS :-

1. LIJO, PUNNATHARA KANDATHIL VEEDU, PUTHAKULAM MURI
KARTHIKAPALLY - 690 516.
2. V.T.THOMAS
VENATTUSSERIL, KARTHIKAPALLY, ALAPPUZHA - 690 516.
3. UNITED INDIA INSURANCE CO. LTD
REPRESENTED BY ITS BRANCH MANAGER, BRANCH OFFICE
KAYAMKULAM - 690 502.

R3 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL
BY ADV.SRI.JOHN JOSEPH VETTIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 22-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

jvt

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

M.A.C.A. No.2355 of 2014

Dated this the 22nd day of January, 2015

J U D G M E N T

Asha, J.

The mother and the sister of the deceased Unnikrishnan have filed this appeal seeking enhancement in compensation. Deceased Unnikrishnan was travelling as a pillion rider in a motorcycle, which was involved in an accident on 8.9.2005. He sustained serious injuries and taken to Govt. Hospital, Haripad, but on the same day he succumbed to the injuries. He was aged 21 years and was studying B.Com degree course and simultaneously completed the course in Diploma in Electronics, Computer Hardware and networking from the Universal College of Engineering.

2. A claim petition was filed under Sec.163A of the Motor Vehicles Act seeking compensation to the tune of ₹6,24,000/-. The Tribunal awarded an amount of ₹1,86,500/- against the said claim. Reckoning his notional income at the rate of ₹15,000/- per annum and after deducting 1/3rd towards his personal expenses, ₹1,80,000/- was awarded under the

head compensation for loss of dependency. Learned counsel submits that the compensation awarded by the Tribunal is thoroughly inadequate and the deduction from the notional income reckoned is not correct.

3. We have heard the learned counsel appearing for the Insurance Company who opposes the claim made by the appellants. The amount awarded by the court below is in terms of the 2nd schedule of the Motor Vehicles Act.

4. We find that the Tribunal has reckoned the notional income as ₹15,000/- per annum, considering the fact that the deceased was not an earning member. But at the same time, as the deceased was not an earning member, the Tribunal was not correct in deducting any amount towards personal expenses. We find that the deduction of a sum of ₹90,000/- from loss of dependency was not correct. Therefore, we find that the actual amount admissible for the appellants will be ₹2,70,000/- (₹15,000 x 18) towards loss of dependency. Therefore, the award passed by the Tribunal is modified enhancing the compensation towards loss of dependency. We find no reason to modify the amount awarded under the other

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heads as the same are in accordance with the provisions contained in the 2nd schedule of the Act.

In the result, this appeal is allowed modifying the award passed by the Tribunal by granting a total compensation of **₹2,76,500/- (Rupees Two Lakhs Seventy Six Thousand Five Hundred only)** to the appellants along with interest at the rate of 9% per annum from the date of petition till realisation. The Insurance Company shall deposit the total compensation within a period of three months from the date of receipt of a copy of this judgment, less the amount already deposited before the Tribunal. The apportionment among the appellants shall be as fixed by the Tribunal.

Sd/-
T. R. RAMACHANDRAN NAIR
JUDGE

Sd/-
P.V.ASHA
JUDGE