

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 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

MACA.No. 2241 of 2009 ()

AGAINST THE AWARD IN OPMV 136/2005 of MACT,KALPETTA DATED 3.1.2009
APPELLANT(S)/PETITIONERS:

1. M.K.SARADA, D/O.LATE AMMU@ LAKSHMI,
AGED 26 YEARS, MELEKOLLYIL HOUSE, KOTTATHARA PO
VYTHIRI TALUK, WAYANAD DIST.

2. P.K.ANILKUMAR S/O.LATE AMMU@LAKSHMI
AGED 24 YEARS, MELEKOLLYIL HOUSE, KOTTATHARA PO
VYTHIRI TALUK, WAYANAD DIST

3. KUMBA, M/O.LATE AMMU @ AMMINI@LAKSHMI
AGED 24 YEARS, MELEKOLLYIL HOUSE, KOTTATHARA PO
VYTHIRI TALUK(IMPLEADED AS SUPL.PETITIONER NO.3
AS PER THE ORDER IN IA.2613/06DATED 02-112-006)

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)

RESPONDENT(S)/RESPONDENTS:

1. GEORGE PARAYIDATHIL, S/O.KURIAN,
AGED 49 YEARS, VALAD AMSOM DESOM, WAYANAD DIST

2. MANAGING DIRECTOR,KSRTC,
THIRUVANANTHAPURAM.

3. MUHAMMED ASHARAF, FATHERS'S NAME NOT
KNOWN AGED 32 YEARS, ARAKKAL HOUSE, MUTTIL AMSOM
PARIYARAM, VYTHIRIR TALUK

4. AHAMMED BASHEER, S/O.UNNEENKUTTY,
AGED NOT KNOWN, EDAPATTY, KAINATTY
KALPETTA NORTH, POST, VYTHIRIR TALUK

5. NATIONAL INSURANCE CO., KALPETTA,
POLICE, NOT.NOT KLNWON.

6. SHAJI , AGED 27 YEARS, S/O.PIYOOS,
ERALATHUMKOLLY HOUSE, ANCHUKUNNU AMSOM, PALLIKUNNU
WAYANAD DIST.

R,R5 BY ADV. SRI.MATHEWS JACOB (SR.)

R,R5 BY ADV. SRI.P.JACOB MATHEW

R2 BY ADV. SRI.JOY GEORGE, SC, K.S.R.T.C.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.2241 of 2009

Dated this the 5th day of March, 2015

JUDGMENT

Asha, J.

The appellants are the legal heirs of deceased Ammini who met with an accident on 6.2.2005 while she was travelling in a motor cycle bearing Reg. No.KL 11F/6901 which was hit by a private bus and collided with another KSRTC bus. The KSRTC bus ran over the body of the deceased. The deceased sustained serious injuries and succumbed to the same. A claim petition was filed seeking compensation to the tune of Rs.5 lakhs. The Tribunal awarded a sum of Rs.2,42,000/-. The Tribunal assessed the monthly income at Rs.2,000/-. This appeal is filed seeking enhancement in compensation.

2. We heard learned counsel appearing on either side.

3. It was claimed that the deceased was earning a monthly income at Rs.6,000/- working as a kooli. In accordance with the wage

structure prevailing at the time of accident and in the light of the decision of the Apex Court in **Ramachandrappa v. Royal Sundaram Alliance Ltd.** {(2011) 13 SCC 236), an amount of Rs.4,000/- can be fixed as monthly income of the deceased. Since she was aged 45 at the time of death, the proper multiplier is 14 and the total compensation under the head of loss of dependency will be Rs.4,48,000/- $4000 \times 12 \times 14 \times \frac{2}{3}$). We enhance the compensation under the heads of funeral expenses and loss of love and affection at Rs.25,000/- and Rs.1 Lakh respectively. An amount of Rs.10,000/- is awarded towards compensation for pain and suffering. An amount of Rs.15,000/- is awarded towards loss of estate.

Thus, the award passed by the Tribunal is modified as follows:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Modified award passed by this Court (Rs)</i>
Transport to hospital	1000	1000
Funeral expenses	3000	25000
Loss of love and affection	30000	100000
Loss of dependency	208000	448000
Pain and suffering		10000
Loss of estate		15000
Total		599000

(Rupees Five lakhs and ninety-nine thousand only)

The enhanced amount will carry interest at the rate of 9% per annum from the date of petition and the insurance company is directed to deposit the entire amount of compensation, less the amount already deposited before the Tribunal, within a period of three months.

The appeal is allowed as above. The parties will bear their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

kav/