

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR  
&  
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH**

**TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937**

**MACA.No. 2786 of 2009 ( )**

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AGAINST THE AWARD IN OP(MV) 10/2002 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,  
PATHANAMTHITTA DATED 15-06-2009  
APPELLANTS/RESPONDENTS 4 AND 5:**

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- 1. RAMAKRISHNAN NAIR, BIJU BHAVANAM,  
KOLLIYANIKODE, KODAL, PATHANAMTHITTA DISTRICT.**
  - 2. VIJAYAMMA, W/O.RAMAKRISHNAN NAIR  
KOLLIYANIKODE, KODAL, PATHANAMTHITTA DISTRICT.**

**BY ADV. SRI.V.PHILIP MATHEW**

**RESPONDENTS/PETITIONERS AND RESPONDENTS 1 TO 3:**

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- 1. SUBASH, S/O. RAGHAVAN NAIR,  
NIRAVIL THEKKETHIL VEEDU, PAKKANDAM,  
KODAL VILLAGE, PATHANAMTHITTA.**
  - 2. THE SECRETARY, KONNI BLOCK MOTOR  
THOZHILALI CO-OPERATIVE SOCIETY LTD. NO.P.T.158  
KONNI, PATHANAMTHITTA.**
  - 3. THE BRANCH MANAGER, NEW INDIA ASSURANCE CO.LTD.  
CHANGAYIL BUILDINGS COLLEGE ROAD  
PATHANAMTHITTA.**
  - 4. SREEKALA KUMARI,  
W/O. LATE REGIKUMAR, SUJATHALAYAM  
KUMMANNOOR.P.O. IRAVAN VILLAGE, KOZHENCHERRY TALUK.**
  - 5. SAI SRIRAM MINOR, AGED 9 YEARS,  
S/O. LATE REGIKUMAR, SUJATHALAYAM  
KUMMANNOOR.P.O. IRAVAN VILLAGE, KOZHENCHERRY TALUK  
REPRESENTED BY 4TH RESPONDENT, MOTHER OF THE  
5TH RESPONDENT.**

**R1 BY ADV. SRI.T.MADHU**

**R3 BY ADV. SMT.M.HEMALATHA**

**R4-5 BY ADVS. SRI.T.K.VENUGOPALAN**

**SRI.SHIBU JOSEPH**

**SRI.ROY THOMAS (PATHANAMTHITTA)**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON  
02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**SHG/**

**T.R. RAMACHANDRAN NAIR & K.P. JYOTHINDRANATH, JJ.**

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**M.A.C.A. No.2786 of 2009**  
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**Dated this the 2<sup>nd</sup> day of June, 2015**

**J U D G M E N T**

**Ramachandran Nair, J.**

This appeal is filed by the parents of the deceased one Sri. Regikumar, who died in a motor vehicle accident which occurred on 21.6.2001. The scope of the appeal is limited and the appellants have filed this appeal only to the extent of improper fixation of amounts to the parents. It is reported by the learned counsel that the second appellant is no more and the father 1<sup>st</sup> appellant alone remains in the party array. The Tribunal awarded a total compensation of Rs.4,95,000/- in an application filed by the widow and child of the deceased. The appellants were respectively respondents 4 & 5 before the Tribunal. The Tribunal has granted amounts towards loss of dependency, loss of estate, loss of consortium to the widow of the deceased and loss of love and affection to the minor child as well as pain and suffering endured by the deceased. Out of the total compensation of Rs.4,95,000/-, the Tribunal has apportioned

an amount of Rs.40,000/- each to both the appellants (respondents 4 & 5 in O.P.(M.V.).

2. We have heard the learned counsel appearing for the first appellant, learned counsel appearing for the first respondent, learned counsel appearing for the claimants before the Tribunal and the learned counsel appearing for the Insurance Company.

3. The claimants have not filed any appeal. One of the grounds stated in the appeal is that the amount awarded under different heads is too low. For loss of love and affection to the parents no amount has been granted by the Tribunal. The deceased was aged 30 at the time of accident. In the said accident he died on the same day on the way to hospital. The appellants are very much deprived of the love and care of the son. As far as loss of love and affection is concerned we are of the view that we will be justified in granting a reasonable amount to the mother and appellant No.1. Accordingly, we fix an amount of Rs.50,000/- (Rupees fifty thousand only) for loss of love and care to the parents (as on the date of the award) including

the deceased mother who had joined in this appeal as appellant No.2. As appellant No.1 survives her, he will be entitled to get the said amount.

4. The enhanced compensation will carry interest at the rate of 9% per annum from the date of petition till realisation. The appeal is allowed to the above extent. We want to make it clear that this will not affect the apportionment of the amount in favour of the claimants before the Tribunal, who are respondents 4 & 5. There will be a direction to the Insurance Company to deposit the amount of compensation, less the amount already deposited, before the Tribunal within a period of three months and we permit the appellant No.1 to withdraw the amount when the amount is deposited by the Insurance Company.

There will be no order as to costs in the appeal.

Sd/-

**T.R. RAMACHANDRAN NAIR**  
**JUDGE**

Sd/-

**K.P. JYOTHINDRANATH**  
**JUDGE**

shg/