

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

MACA.No. 2660 of 2010

AGAINST THE AWARD IN OPMV 1844/2005 of MACT, THRISSUR,
DATED 24-07-2010

APPELLANT(S)/PETITIONERS:

1. SUSEELA, W/O. LATE VASUDEVAN,
KARAMAKKAL HOUSE, ANTHIKKAD.P.O,
THRISSUR DISTRICT.

2. SUMESH, S/O. LATE VASUDEVAN,
RESIDING AT -DO-

3. SUBEESH, S/O. LATE VASUDEVAN,
RESIDING AT -DO-

BY ADV. SRI.T.C.SURESH MENON

RESPONDENT(S)/RESPONDENTS:

1. LATHA SREENIVASAN, W/O. SREENIVASAN,
POTTEKKATTU HOUSE, KANDASSANKADAVU.P.O.,
THRISSUR DISTRICT-680 613.

2. JOHNSON.P.J, S/O. JOSEPH,
PULIKOTTIL HOUSE, VATANAPILLY,
THRISSUR DISTRICT-680 613.

3. NATIONAL INSURANCE CO. LTD.,
THRISSUR-680 001.

R3 BY ADV. SRI.RAJAN P.KALIYATH

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP
FOR ADMISSION ON 05-10-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

**P.R. RAMACHANDRA MENON &
K. HARILAL, JJ.**

M.A.C.A. No. 2660 of 2010-C

Dated this the 5th day of October, 2015

JUDGMENT

Ramachandra Menon, J.

The compensation awarded by the Tribunal to the tune of ₹3,40,000/- as against the total claim of ₹8,00,000/- in respect of the deceased aged 43 years, who was the sole bread winner of the family, is sought to be enhanced by way of this appeal preferred by the claimants, who are the widow and two children.

2. The accident occurred on 22/3/2005 when the deceased was pedalling a bicycle along the road. While so, the bus bearing Registration No.KL-8/F 7225 owned by the 1st respondent, driven by the 2nd

respondent and insured by the 3rd respondent, came and knocked him down causing fatal injuries leading to his death. Claim petition was filed by the appellants herein, projecting the deceased as a concrete worker having a monthly income of ₹6,000/-.

3. The evidence adduced before the Tribunal consists of Exts.A1 to A9 and that alone. No oral evidence was adduced by either side. On conclusion of the trial, the Tribunal arrived at negligence on the part of the driver of the bus and proceeded to fix the quantum of compensation accordingly. The amounts awarded by the Tribunal under various heads are as given below:

1. For loss of contribution and dependency (20,000 x 15)	- ₹3,00,000/-
2. For love and affection	- 10,000/-
3. For transportation and funeral	- 5,000/-
4. For loss of estate	- 10,000/-
5. For loss of consortium	- 10,000/-
6. For pain and suffering	- 5,000/-

Total	₹3,40,000/-
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4. Heard the learned counsel for the appellants as

well as the learned counsel appearing for the Insurance Company, at length.

5. It is seen from the award that only a sum of ₹2,500/- has been taken by the Tribunal as the notional income of the deceased for fixing the loss of dependency. Considering the fact that the accident occurred was in the year 2005 and that the deceased was an able bodied person of 43 years, who was maintaining his family consisting of widow and two children, we are of the firm view that the monthly income adopted by the Tribunal is not proper and the same requires to be enhanced to ₹4,000/-. The Tribunal has reckoned the multiplier of '15' which ought to have been '14' in view of the principles laid down by the Apex Court in *Sarla Verma v. Delhi Transport Corporation* [2010 (2) KLT 802 (SC)]. On re-working the compensation as above, the amount comes to $4000 \times 12 \times \frac{2}{3} \times 14 = ₹4,48,000/-$. After giving credit to the sum of ₹3,00,000/- awarded by the

Tribunal towards loss of contribution and dependency, the balance comes to ₹1,48,000/-. It is awarded accordingly.

6. It is further seen that the Tribunal awarded only a sum of ₹10,000/- towards loss of love and affection and another sum of ₹10,000/- towards loss of consortium (to the 1st claimant/1st appellant). We find that the amount awarded by the Tribunal is quite inadequate and the same requires to be enhanced to ₹50,000/- each, thus resulting the balance amount of ₹40,000/- under each of the head (total ₹80,000/-). The appellants are allowed these amounts as well. The total balance amount of ₹2,28,000/- (Rupees Two lakhs and twenty eight thousand only) shall be satisfied with interest at the rate of 9% per annum from the date of filing the claim petition i.e., 17/8/2005, till the date of deposit. Since the policy is admitted, the Insurance Company is directed to deposit the amount within a period of one month from

the date of receipt of a copy of this judgment.

This appeal is disposed of accordingly.

Sd/-

(P.R. RAMACHANDRA MENON, JUDGE)

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge