

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYAISHTA, 1937

MACA.No. 1809 of 2008 ()

AGAINST THE AWARD IN OPMV 1136/2001 MACT,EKM DATED 29-10-2007
APPELLANT(S):PETITIONERS

1. SREEKALA.P.G., 43 YEARS, W/O.LATE A.K.
REGHUNATH

2. MEERA REGHUNATH (MINOR) 17 YEARS
DAUGHTER OF LATE A.K.REGHUNATH

3. MANU REGHUNATH (MINOR),
8 YEARS, S/O.LATE A.K.REGHUNATH

4. K.KARUNAKARA MENON, 85 YEARS
S/O.LATE SANKUNNY MENON

5. A.RAFDHAMMA, 74 YEARS, W/O.K.
KARUNAKARA MENON.
APPELLANTS 2 AND 3 REP. BY NEXT-FRIEND MOTHER
1ST APPELLANT SREEKALA.P.G.

BY ADV. SRI.ANIL S.RAJ

RESPONDENT(S):RESPONDENTS

1. K.O.AUGUSTHY, S/O.OUSEPH @ JOSEPH
KALPARAMBATH HOUSE, MOOKKANNOOL PO., ANGAMALY.(DELETED)

2. T.K.MOHANAN, S/O.KUNJUKUTTAN, THANDE-
KKATTIL HOUSE, EAST OF KAPPELA, NEAR KATTIPOKKAM
JN., M.G.ROAD, CHALAKUDY.(DELETED)

3. NATIONAL INSURANCE CO.LTD., JANATHA JN.,
PALARIVATTOM, COCHIN-682025.
(R1 & R2 DELETED FROM THE PARTY ARRAY AS PER ORDER IN IA 625/2013
DT.25.3.2013)

R,R3 BY ADV. SRI.JOE KALLIATH

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
03-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.1809 of 2008

Dated this the 3rd day of June, 2015

JUDGMENT

Jyothindranath, J.

This appeal is preferred against the award dated 29.10.2007 made in O.P.(MV) No.1136/2001 on the file of the Addl. Motor Accidents Claims Tribunal, Ernakulam. The petitioners are the appellants herein.

2. The case of the appellants is that they are the wife, children and parents of deceased A.K. Reghunath who died in a motor vehicle accident occurred on 31.12.2000 at 7.10 p.m., near Paruthichodu on the Vyttila - Aroor Bypass road. While the deceased was riding a motor bike, a lorry bearing Reg. No. KL-7/K 9991 came from the opposite direction and hit against a pedestrian and thereafter hit against the scooter. In that accident, the said A.K. Reghunath sustained grievous injuries and died on the way to the hospital.

3. The further case of the appellants is that the deceased Reghunath was running a printing press and earning a monthly income

of more than Rs.5,000/-. It is also submitted before us that documents are produced before the Tribunal to show his educational qualifications as well as to prove his business. But the Tribunal only awarded a sum of Rs.3,45,000/-. Alleging inadequacy of compensation, this appeal is preferred.

4. Counsel on both sides heard. Ext.A6 is the factory licence of the printing press. Ext.A14 is the mark list of B.Com. degree examination and Ext.A13 is the certificate issued by the Board of Technical Examination. The appellants also produced the pass book of the printing press which is marked as Ext.A9. Ext.A10 is a document produced to show the closure of the printing press after the death of Reghunath. The Tribunal only considered a sum of Rs.2,500/- as his monthly income. It is only just and proper to adopt Rs.5,000/- for a business man who proved that he was running a printing press. The deceased was aged 41 years. His date of birth is shown as 20.5.1959. If that is so, the multiplier available will be 14. The claimants are five in number including his parents. Thus, the deduction that is to be done will be $1/4^{\text{th}}$.

After considering all these aspects, the compensation is re-assessed as follows:

<i>Head of claim</i>	<i>Amount awarded by the Tribunal</i>	<i>Modified award passed by this Court</i>
Transportation and funeral expenses	5000	2000 + 25000
Shock, pain and suffering	10000	10000
Loss of dependency	300000	630000 (5000 x 12 x 14 x $\frac{3}{4}$)
Loss of consortium	10000	100000
Loss of love and affection	10000	100000
Loss of estate	10000	50000
Total		917000

(Rupees Nine lakhs and seventeen thousand only)

The enhanced amount of compensation will carry interest at 9% per annum from the date of petition and the insurance company is directed to deposit the amount of compensation, less the amount already deposited before the Tribunal, within a period of three months. The enhanced amount shall be shared in the proportion fixed by the Tribunal. The amount deposited in the name of the minor third appellant shall be deposited in a nationalised bank till he attains majority and on attaining majority he is entitled for release of the

amount. It is also made clear that all other appellants are entitled for the release of the amount on deposit. The appellants shall pay the balance court fee which will be recovered by the Tribunal from the amount deposited by the insurance company.

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

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(K.P. JYOTHINDRANATH,, JUDGE.)

kav/