

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

MACA.No. 2247 of 2008 ()

AGAINST THE AWARD IN OPMV 163/2007 of MACT PALA DATED 16-05-2008

APPELLANTS/PETITIONERS:

1. K.C.BABU, S/O.CHANDU, AMBALAKATTU(H),
NEECHIMA KARA, CHOONDY EAST VILLAGE, ERNAKULAM.

2. B.SHIVAPRIYA, W/O.K.C.BABU, AMBALAKATTU
(H), NEECHIMA KARA, CHOONDY EAST VILLAGE
ERNAKULAM.

3. K.B.SHEEJA, D/O.K.C.BABU AMBALAKATTU(H),
NEECHIMA KARA, CHOONDY EAST VILLAGE, ERNAKULAM.

4. K.B.VINOD KUMAR, S/O.K.C.BABU,
AMBALAKATTU(H), NEECHIMA KARA, CHOONDY EAST VILLAGE
ERNAKULAM.

5. K.B.SHAM KUMAR, S/O.K.C.BABU,
AMBALAKATTU (H), NEECHIMA KARA, CHOONDY EAST
VILLAGE, ERNAKULAM.

BY ADV. SRI.GEORGE MATHEW

RESPONDENTS/RESPONDENTS:

1. MATHEW.K.J, S/O.JOSEPH KEECHERIL(H),
KADAPLAMATTOM.

2. DENNY JOSEPH, KOLADY(H), CHERPUNKAL,
CHERPUNKAL.P.O.

3. THE MANAGER, NEW INDIA ASSURANCE
COMPANY LTD., PALA.

R3 BY ADV. SRI.VPK.PANICKER

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 02-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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

M.A.C.A.No.2247 OF 2008

Dated this the 2nd day of February, 2015

JUDGMENT

Asha, J.

Parents and siblings of deceased Manoj Kumar has filed this appeal for enhancement of compensation. The deceased met with an accident while the motor cycle which he was riding was hit by a truck. He sustained fatal injuries and was taken to hospital. He succumbed to the injuries on the same day.

2. The claim petition was filed by the appellants herein under Section 163 A of the Motor Vehicles Act. The Tribunal awarded a sum of ₹1,24,500/-. The learned counsel for the appellants submits that the income reckoned by the Tribunal is too low. The deceased was aged 21 years and it was claimed that he was earning a monthly income of ₹4,200/- per month. The Tribunal reckoned his income as ₹3,000/- per month.

3. We heard the learned counsel appearing for the Insurance Company, who pointed out that the maximum income that could have been claimed in a petition under Section 163 A is ₹40,000/-. In this case, the

Tribunal has reckoned his income @ ₹3,000/- per month, which is reasonable.

4. Going by the second schedule, the compensation admissible in a petition under Section 163 A when the deceased was earning income @ ₹36,000/- per annum is ₹6,12,000/-. The other amounts admissible in such petition are, a sum of ₹2,000/- towards funeral expenses and a sum of ₹2,500/- towards loss of estate and medical expenses. In this case the deceased was unmarried and the Tribunal has awarded a sum of ₹2,500/- for loss of estate and ₹2,000/- towards funeral expenses. Therefore, the compensation of ₹1,20,000/- awarded under the head of loss of dependency is enhanced to ₹ 6,12,000/- and the award passed by the Tribunal is modified. Accordingly, appellants will be entitled to a total compensation of ₹6,16,500/-. The amount will carry interest @ 9% per annum from the date of petition. The Insurance Company will deposit the amount less the amount already deposited within a period of three months from the date of receipt of a copy of this judgment.

The appeal is accordingly allowed.

T.R.RAMACHANDRAN NAIR, JUDGE

SV

P.V.ASHA, JUDGE

The judgment dated 02.02.2015 in M.A.C.A.No.2247/2008 is modified as per order dated 01/04/2015 in R.P.No.332/2015 in M.A.C.A.No.2247/2008 which stands appended to the judgment in M.A.C.A.

Sd/-

Registrar (Judicial)