

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 MARCH 2015/11TH PHALGUNA, 1936

MACA.No. 2257 of 2008 ()

AGAINST THE AWARD IN OPMV 1466/2001 of I ADDL. M.A.C.T.,KOZHIKODE DATED
24-11-2007

APPELLANT(S)/PETITIONERS:

1. SARADA, W/O.BHASKARAN, AGED 52 YEARS

2. BHASKARAN, S/O.KUMARAN, AGED 62 YEARS.

3. JAYAPRASAD K.P., S/O.BHASKARAN,
AGED 28 YEARS, ALL ARE RESIDING AT
KULLIPARAMBIL HOUSE, POST NADERI, KOYILANDY VIA
KOZHIKODE.

BY ADVS.SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENT(S)/RESPONDENTS:

1. K.KRISHNAN, S/O.KADUNGI,
KILIVAYIL HOUSE, POST IRINGALLOOR, VENGERA
MALAPPURAM DISTRICT.

2. UNITED INDIA INSURANCE CO.LTD.,
WHITELINE BUILDING, KALLAI ROAD, CALICUT.

R,R1 BY ADV. SRI.SAJU J.VALLYARA

R,R2 BY ADV. SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.2257 of 2008

Dated this the 2nd day of March, 2015

JUDGMENT

Asha, J.

The appellants are parents and brother of deceased Jayaprakasan who met with an accident on 11.3.2001. The deceased was proceeding from Valancheri to Calicut in a bus which was hit by a car and overturned. The deceased was trapped inside the bus and died on the spot.

2. The deceased was working as High School Assistant in Government Janatha Hospital, Naduvattom and was drawing a sum of Rs.6,436/- per month as salary. A claim petition was filed seeking compensation to the tune of Rs.15 Lakhs. The Tribunal awarded a sum of Rs.6,00,500/-. This appeal is filed seeking enhancement of compensation.

3. Learned counsel for the appellants pointed out that the income reckoned by the Tribunal was only Rs.4,800/- as against the salary of

Rs.6,436/- drawn by the deceased. Apart from that, the deceased was aged only 30 years and therefore his income was liable to be reckoned after adding 50% towards future prospects. It is also pointed out that the compensation awarded under various other heads are also inadequate.

4. We heard learned counsel for the insurance company also.

5. The deceased was working as High School Assistant in a Government school getting a regular income. Since he was employed under the Government, his income for the purpose of compensation is liable to be reckoned by adding 50% towards future prospects. Therefore, the income to be reckoned will be Rs.9,654/- (Rs.6,436/- + Rs.3,218/-). Again, since he is a bachelor, 50% of the income has to be deducted towards personal expenses. Therefore, the income to be reckoned is Rs.4,827/- per month. The multiplier to be adopted is 17. The annual income will come to Rs.57,924/-. At the relevant time, annual income upto Rs.50,000/- is not taxable. 10% of the amount in excess of Rs.50,000/- is taxable at the rate of 10%. Therefore, a sum of Rs.792/40 has to be deducted out of the total annual income. Then, the multiplicand will be $\text{Rs.}57131.60/12 = 4761$. The amount under the head of loss of dependency

will therefore come to Rs.9,71,244/- (4761 x 12 x 17). The Tribunal awarded a sum of Rs.10,000/- towards loss of love and affection. We enhance the same to Rs.60,000/-. Towards pain and suffering the Tribunal has already awarded a sum of Rs.10,000/-. Towards funeral expenses a sum of Rs.2,500/- alone is awarded which we enhance to Rs.25,000/-, in the light of the judgment of the Apex Court in **Rajesh v. Rajbir Singh**(2013 (3) KLT 89 – SC). A sum of Rs.2,000/- has been awarded towards transportation expenses, but no amount is awarded towards compensation for loss of estate. Since the deceased was a Government employee, we find that a sum of Rs.30,000/- can be fixed as compensation towards loss of estate.

Accordingly, 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>
Loss of dependency	576000	971244
Loss of love and affection	10000	50000
Funeral expenses	2500	25000
Pain and suffering	10000	10000
Loss of estate		30000
Transportation expenses	2000	2000
Total		1088244

(Rupees Ten Lakhs eighty-eight thousand two hundred and forty-four only)

The enhanced amount will carry interest at the rate of 9% per annum

from the date of petition. 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 shall bear their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(P.V. ASHA, JUDGE.)

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