

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

RP.No. 1101 of 2015 () IN MACA.2680/2010

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AGAINST THE JUDGMENT IN MACA 2680/2010 of HIGH COURT OF KERALA DATED
06-10-2015**

REVIEW PETITIONER(S)/PETITIONER:

1. M/S. UNITED INDIA INSUANCE COMPANY LTD
REP BY ITS MANAGER, CULLAN ROAD, ALAPPUZHA

2. UNITED INDIA INSURANCE CO.LTD, REP BY ITS
DIVISIONAL MANAGER, DIVISIONAL OFFICE, MULLAKKAL
ALAPPUZHA 688522

BY ADV. SRI.RAJAN P.KALIYATH

RESPONDENT(S)/RESPONDENTS:

1. RAJAPPAN, AGED 63 YEARS
S/O.RAMANKUTTY, DEVASMCHIRA HOUSE, KALAVOOR POST
M S P WARD VI ALAPPUZHA

2. RAJAMMA , AGED 57 YEARS
W/O.RAJAPPAN, DEVASMCHIRA HOUSE, KALAVOOR POST
M S P WARD VI ALAPPUZHA

3. K V SEBASTIAN,
S/O.VARGHESE K D, KIDANGUEL HOUSE, KOOVAPPADY (P)
WARD 14, KUNNTHUNADU TALUK, ERNAKULAM

4. K V THOMAS
S/O.KUNJU VAREED, KANNAPPALLY HOUSE, MATTOOR
KALADY PANCHAYATH, WARD 12 , KALADY

5. THIRAMALA RAO
S/O.M SREENIVASA SHENAI, SREYAM HOUSE
(VELIMPARAMBU)THIRUMALA BHAGOM, THURAVOOR P O
CHERTHALA TALUK, ALAPPUZHA DISTRICT 588532
(OWNER CUM RIDER OF KINETIC HONDA SCOOTER
BEARING REG NO KL 4 A 305)

6. THE ORIENTAL INSURANCE COMPANY LIMITED
REP BY ITS BRANCH MANAGER, CULLEN ROAD
ALAPPUZHA 688001

7. V S JAGADEESH
VELIYIL THEYIL HOUSE, KALAVOOR POST, ALAPPUZHA 688522

8. INDRAJITH P
S/O.PURUSHOTHAMAN, CHLAMATHARA HOUSE, KALAVOOR POST
MSP WARD VI, ALAPPUZHA 688522

R1 AND R2 BY SRI.A.T.ANILKUMAR
R6 BY SRI.VPK.PANICKER

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 16-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.R. RAMACHANDRA MENON

&

K. HARILAL, JJ.

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R.P. No. 1101 of 2015

in

M.A.C.A. No. 2680 of 2010

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Dated, this the 16th day of December, 2015

ORDER

Ramachandra Menon, J.

This review petition has been filed at the instance of the Insurance Company mainly contending that at the time of re-fixing the quantum of compensation, this Court has deducted only 1/3rd towards the personal expenses, despite the fact that the deceased was a bachelor, and remaining extent of 2/3rd was reckoned as contribution towards the family, which is contrary to the dictum laid down by the Apex Court in **Sarla Verma Vs. Delhi Transport Corporation [2010 (2) KLT 802 (SC)]**.

2. We have gone through the facts and proceedings leading to the verdict passed by this Court on 06.10.2015 and the grounds raised in the review petition. We find that the course pursued by this Court was a 'conscious exercise', taking note of the fact that though the accident was in the year 2002, the monthly income reckoned was

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on notional basis as Rs.2000/-; which was enhanced only to an extent of Rs.3000/- and never above; particularly since the Tribunal has reduced only 1/3rd towards personal expenses. It was accordingly that adequate extent of compensation was granted under relevant heads wherever it was found necessary, to make it a 'just' award under Section 168 of the Motor Vehicles Act. There is no dispute with regard to the principle to be applied, but the totality of the facts and circumstances has to be taken note of. Even if amount towards personal expenses is reckoned as 50%, it is quite possible to have increased the monthly income and such other heads/aspects, awarding compensation to an appropriate extent, to make it a 'just' award. This in fact will not tilt the balance in any manner. There is no error apparent on the face of the records to invoke the power of review. It is dismissed as devoid of any merit.

Sd/-
P. R. RAMACHANDRA MENON,
JUDGE

Sd/-
K. HARILAL,
JUDGE

kmd