IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

THURSDAY, THE 10TH DAY OF APRIL 2025 /20TH CHAITHRA, 1947

RP NO. 419 OF 2025

AGAINST THE ORDER/JUDGMENT DATED 13.02.2025 IN MACA NO.1523 OF 2018 OF HIGH COURT OF KERALA

REVIEW PETITIONERS/APPELLANTS:

1 ASHOK KUMAR
AGED 52 YEARS
S/O.LATE RETNAMMA, PULIMOOTTIL PADINJATTATHIL VEEDU, KOTTAKKAKAM MURI, KULANGARA BAGOM, CHAVARA VILLAGE, KARUNAGAPPALLY TALUK, CHAVARA P.O., KOLLAM - 691583

2 AJAYAKUMAR
AGED 50 YEARS
S/O.LATE RETNAMMA, PULIMOOTTIL PADINJATTATHIL VEEDU, KOTTAKKAKAM MURI, KULANGARA BAGOM, CHAVARA VILLAGE, KARUNAGAPPALLY TALUK,CHAVARA P.O, KOLLAM - 691583

3 ANITHAKUMARI
AGED 47 YEARS
D/O.LATE RETNAMMA, PULIMOOTTIL PADINJATTATHIL VEEDU, KOTTAKKAKAM MURI, KULANGARA BAGOM, CHAVARA VILLAGE, KARUNAGAPPALLY TALUK, CHAVARA P.O., KOLLAM - 691583

BY ADV K.SIJU

RESPONDENT/RESPONDENT:

THE NATIONAL INSURANCE COMPANY LTD.
REPRESENTED BY THE BRANCH MANAGER, NATIONAL INSURANCE COMPANY LTD., BRANCH OFFICE, KOLLAM - 691001

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 28.03.2025, THE COURT ON 10.04.2025 DELIVERED THE FOLLOWING:

ORDER

This is a petition filed under Order XLVII Rule 1 r/w Section 114 of the Code of Civil Procedure, 1908 seeking review of the judgment dated 13.02.2025 passed in M.A.C.A. No.1523/2018.

2. The review petitioners are the appellants in M.A.C.A. No.1523/2018, which was filed seeking enhancement of compensation awarded in O.P.(MV). No.1374/2014 on the file of the Motor Accidents Claims Tribunal, Kollam. The said original petition was filed seeking compensation on account of the death of one Retnamma, who died in a motor accident that occurred on 05.03.2009. This Court after hearing both sides and upon perusal of records, allowed the appeal by enhancing compensation by a further amount of Rs. 2,95,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

3. Now, the appellants have come up with this review petition contending that while passing the impugned judgment, this Court failed to comply with the directions of the constitutional bench decision of the Hon'ble Supreme Court in **National Insurance Company Ltd. v. Pranay Sethi [2017(4) KLT 662]**. In the review petition, it

is contended that the non-compliance of the directions issued in the said constitutional bench decision itself is an error apparent on the face of record warranting interference by way of review.

4. I heard learned counsel appearing for both sides and pursued the impugned judgment.

5. Undoubtedly, the provision contained under Section 166 of Motor Vehicles Act is a social welfare legislation. Therefore, it is incumbent upon the tribunal as well as the Court to ensure that the compensation awarded under various heads are just, fair, reasonable, and adequate, irrespective of the claim made by the parties. As rightly pointed out in the review petition in **Pranay Sethi (supra)**, certain guidelines and directions were issued by the Apex Court to be followed while dealing with claim petitions under the Motor Vehicles Act. Being a constitutional bench decision, it is obligatory on the part of this Court to follow the dictum laid down in the said case. But unfortunately overlooking the same, this Court omitted to make an addition of 10% to the compensation awarded under the conventional heads in a death case. In **Pranay Sethi (supra),** it was held that under the heads of loss of estate, loss of consortium and funeral expenses, the compensation awarded should be Rs. 15,000/-, Rs. 40,000/- and

Rs. 15,000/- respectively. Moreover, the Apex Court made it clear that the compensation under the said conventional heads should be enhanced at the rate of 10% in every three years. However, without taking note of the same, under the heads of loss of consortium, funeral expenses and loss of estate, this Court awarded only an amount of Rs. 1,20,000/- (40,000/- x 3), Rs. 15,000/- and Rs. 15,000/- respectively. The fact that the non-compliance of the direction in the judgment of Apex Court is an error apparent on the face of records. Therefore, in order to undo the said error, the earlier judgment passed by this Court has to be reviewed. Hence, the petitioners are found entitled to get an additional amount of Rs. 25,200/- under the head of loss of consortium, Rs. 3,150/- under the head of funeral expense and Rs. 3,150/- under the head of loss of estate entitling them to get a total additional compensation of Rs. 31,500/- (Rupees Thirty-One Thousand Five Hundred Only) (Rs. 25,200/- + Rs. 3,150/- + Rs. 3,150/-) with the interest at the rate of 7.5 % per annum from the date of petition till realisation. Needless to say, the said additional compensation shall be in addition to the compensation already awarded by this Court in the judgment passed in M.A.C.A.No.1523/2018 dated 13.02.2025.

The order in this review petition shall be read in conjunction with the earlier judgment passed by this Court in M.A.C.A. No.1523/2018.

Sd/-
JOBIN SEBASTIAN
JUDGE

ANS