



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE JOHNSON JOHN

THURSDAY, THE 6TH DAY OF MARCH 2025 / 15TH PHALGUNA, 1946

MACA NO. 591 OF 2021

AWARD DATED 12.07.2019 IN OP(MV) NO.591 OF 2017 OF MOTOR ACCIDENT
CLAIMS TRIBUNAL, PALAKKAD

APPELLANTS/PETITIONERS:

- 1 SARADA.A
AGED 43 YEARS
S/O LATE MURUKAN, KORAMBULLI VEEDU, NILAYATHIRI, PUDUSSERY,
PUDUSSERY WEST, PALAKKAD DISTRICT - 678 623.
- 2 MIDHILA, AGED 21 YEARS,
D/O LATE MURUKAN, KORAMBULLI VEEDU, NILAYATHIRI, PUDUSSERY,
PUDUSSERY WEST, PALAKKAD DISTRICT - 678 623.

BY ADV BINOY VASUDEVAN

RESPONDENTS/RESPONDENTS:

- 1 RAJESH
S/O KARUPPUSWAMY, PULINGOOTAM, KUTTIPPALLAM,
PANNIPERUMTHALA, CHITUR TALUK, PALAKKAD-678 101.
- 2 THE NEW INDIA ASSURANCE CO LTD,
N.S TOWER, NEAR STADIUM BUS STAND, COIMBATORE ROAD,
PALAKKAD, 678 001, REPRESENTED BY ITS MANAGER.

R2 BY ADV SMT.P.K.SANTHAMMA

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
05.03.2025, THE COURT ON 06.03.2025 DELIVERED THE FOLLOWING:



JOHNSON JOHN, J.

M.A.C.A No. 591 of 2021

Dated this the 6th day of March, 2025.

JUDGMENT

The petitioners in O.P.(MV) No. 591 of 2017 on the file of the Motor Accident Claims Tribunal, Palakkad filed this appeal seeking enhancement of compensation.

2. The petitioners are the legal heirs of the deceased Murukan who died in a motor vehicle accident. According to the petitioners, on 17.08.2016, while the deceased was riding a motorcycle, lorry driven by the 1st respondent in a rash and negligent manner caused to hit the motorcycle and thereby, the deceased sustained serious injuries and succumbed to the injuries on the way to hospital. The 1st respondent is also the owner of the offending vehicle and the 2nd respondent is the insurer.

3. Before the Tribunal, PW1 examined and Exhibits A1 to A18 were marked from the side of the petitioners and from the side of the respondents, Exhibits B1 to B3 were marked. The Tribunal recorded a



finding that the accident occurred because of the negligence on the part of the 1st respondent and that respondents 1 and 2 are jointly and severally liable to pay compensation to the petitioners. The Tribunal awarded a total compensation of Rs.16,63,000 to the petitioners.

4. Heard Sri. Binoy Vasudevan, the learned counsel for the appellants and Smt. P.K Santhamma, the learned counsel for the respondent insurance company.

5. The learned counsel for the appellants argued that the deceased was aged 23 years at the time of the accident and for the reason that the petitioners have not proved the income of the deceased, the Tribunal fixed a notional income of Rs.10,000/- and the same is on the lower side. The decision of the Hon'ble Supreme Court in ***Ramachandrappa v. Royal Sundaram Alliance Insurance Co.Ltd.*** ***[(2011) 13 SCC 236]*** shows that even in the absence of any evidence, the monthly income of an ordinary worker has to be fixed as Rs.4,500/- in respect of the accident occurred in the year 2004 and for the subsequent years, the monthly income could be reckoned by adding Rs.500/- each per year. If the monthly income of the deceased is



calculated by adopting the above principle, it will come to Rs.10,500/-, as the accident occurred in the year 2016. Therefore, considering the facts and circumstances, I find that it is only reasonable to fix the notional income of the deceased as Rs.10,500/- for the purpose of calculating the compensation

6. The decision of the Hon'ble Supreme Court in ***National Insurance Co. Ltd. v Pranay Sethi [(2017) 16 SCC 680]*** and ***Jagdish v. Mohan [(2018) 4 SCC 571]*** shows that the benefit of future prospects should not be confined only to those who have a permanent job and would extend to self-employed individuals and in case of a self-employed person, an addition of 40% of the established income should be made where the age of the victim at the time of the accident was below 40 years.

7. The Tribunal accepted 18 as the multiplier applicable and deducted 50% of the income towards the personal and living expenses of the deceased by following the decision of the Hon'ble Supreme Court in ***Sarla Varma v. Delhi Transport Corporation [2010 (2) KLT 802 (SC)]***. Thus, while re-assessing the compensation for loss of



dependency as per the revised criteria, the amount would come to Rs.15,87,600 $[(10500 + 40\%) \times \frac{1}{2} \times 12 \times 18]$. The Tribunal has already granted Rs.15,12,000/- under this head. Hence, an additional compensation of Rs.75,600/- is granted to the appellant under this head. The compensation fixed by the Tribunal under other heads are not under challenge.

8. Accordingly, the appellants are entitled to the enhanced compensation as given below:

Particulars	Compensation awarded by the Tribunal (Rs.)	Additional amount granted by this Court (Rs.)
Loss of dependency	15,12,000/-	75,600/-
Total enhanced compensation		75,600/-

9. Thus, a total amount of Rs.75,600/- (Rupees Seventy Five Thousand Six Hundred only) is awarded as enhanced compensation. The said amount shall carry interest at the rate of 7.5% per annum from the date of the application till realization (excluding the period of delay of

M.A.C.A. No. 591/2021

: 6 :



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59 days in filing the appeal). The appellants would also be entitled to proportionate costs in the case. The claimants shall furnish the details of the bank account to the insurance company for transfer of the amount.

The appeal is allowed as above.

sd/-
JOHNSON JOHN,
JUDGE.

Rv