

(2012) 07 KL CK 0073
In the High Court Of Kerala
Case No : M.A.C.A. No. 1623 of 2008

Gracy Davis, Dissiyamol Davis, Tom Davis and Thressia	APPELLANT
Vs	
M.L. Vareed, C.C. Suresh and Oriental Insurance Co. Ltd.	RESPONDENT

Date of Decision : 20-07-2012

Acts Referred:

Citation : (2012) 07 KL CK 0073

Hon'ble Judges : Pius C. Kuriakose, J;A.V. Ramakrishna Pillai, J

Bench : Division Bench

Advocate : P.V. Baby, for the Appellant; P.G. Suresh, R1, Sri. C.V. Manuvilsan and Sri. M. Jacob Murickan, R3, for the Respondent

Final Decision : Allowed

Judgement

Pius C. Kuriakose, J.—The legal heirs of one Devassy Pullan, being his widow, minor children and mother, complain that the Motor Accidents Claims Tribunal did not award adequate compensation for the death of Sri. Devassy which happened in a road traffic accident caused by the negligence of the second respondent driver of a car which hits Sri. Devassy down as he was peddling a bicycle. The appellants total claim was for Rs. 5 lakhs, as against which the Tribunal awarded only Rs. 2,52,500/- with 7% interest. According to the appellants, there is gross inadequacy in the compensation awarded by the Tribunal under all the heads. We have heard the submissions of Mr. A.N. Santhosh, learned counsel for the appellant and those of the learned standing counsel for the Insurance Company, apart from hearing Sri. Manu Wilson, learned counsel for the first respondent. The argument of Mr. Santhosh was that there is gross inadequacy in the compensation awarded by the Tribunal. Whereas the argument of the learned standing counsel and Sri. Manu Wilson was that reasonable compensation has been awarded by the Tribunal and there is no justification for increasing the compensation.

2. We have given our anxious consideration to the submissions addressed at the Bar. We have very carefully gone through the impugned award. We are in

agreement with Mr. Santhosh that the learned MACT has not awarded adequate compensation to the appellants. There was evidence to hold that the deceased was doing "Kopra" business. The learned Tribunal adopted the monthly income of the deceased notionally at Rs. 1800/- only. According to us, there is justification for adopting the monthly income of the deceased notionally at Rs. 3000/-. We therefore adopt Rs. 3000/- as the monthly income derived by late Devassy. When dependency compensation is recalculated adopting the revised multiplicand, the Tribunal having adopted the correct multiplier and made proper deductions it is seen that the appellants are eligible for award of a further amount of Rs. 1,20,000/-. We award to the appellants Rs. 1,20,000/- more towards dependency. According to us, the Tribunal should have awarded at least Rs. 10,000/- towards pain and suffering. We therefore award to the appellants Rs. 5000/- more towards pain and suffering. The Tribunal has awarded only Rs. 3000/- towards funeral expenses. We award Rs. 2000/- more towards funeral expenses. We are surprised to find that the Tribunal has not awarded any compensation for loss of estate. We award to the appellants Rs. 5000/- towards loss of estate. We are equally surprised to find that no compensation was awarded towards transportation even though the accident occurred at Chalakudy and the deceased was taken to Elite Mission Hospital, Thrissur. We award to the appellants Rs. 2000/- towards transportation charges. The first appellant was aged only 39 at the time when she lost her husband. We find inadequacy in the compensation awarded to the first appellant towards loss of consortium. We award Rs. 10,000/- more towards loss of consortium to the first appellant. The learned Tribunal awarded only a total sum of Rs. 10,000/- towards loss of love and affection to the three minor children and the aged mother. This in our opinion is grossly inadequate and we award to them a further amount of Rs. 30,000/- towards loss of love and affection. Thus in all the appellants are awarded a further amount of Rs. 1,74,000/- over and above what is awarded by the learned Tribunal. This additional amount will carry interest at the same rate as awarded by the Tribunal.

The appeal is allowed and the impugned award is modified as above.