

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

WEDNESDAY, THE 25TH DAY OF OCTOBER 2023 / 3RD KARTHIKA, 1945

MACA NO. 2138 OF 2010

AGAINST THE AWARD IN OPMV 1252/2005 OF MOTOR ACCIDENT CLAIMS

TRIBUNAL, IRINJALAKUDA DATED 26/04/2010

APPELLANT/3RD RESPONDENT:

M/S NEW INDIA ASSURANCE COMPANY LTD
ST.JOSEPH BUILDINGS, PERUMBAVOOR, ERNAKULAM DISTRICT.

BY ADVS.LAL K.JOSEPH
SURESH SUKUMAR

RESPONDENTS/PETITIONERS 1 TO 6 & RESPONDENTS 1 & 2:

- 1 VIJAYAN, S/O.LATE KRISHNAN, ERAVELIL HOUSE, P.O.CHERUVALOOR, KALLUR VADAKKUMMURY VILLAGE, THRISSUR DISTRICT PIN-680 321.
- 2 RAMAKRISHNAN S/O.VIJAYAN
ERAVELIL HOUSE, P.O.CHERUVALOOR,, KALLUR VADAKKUMMURY VILLAGE,, THRISSUR DISTRICT. PIN-680 321.
- 3 MAHESH S/O.VIJAYAN
ERAVELIL HOUSE, P.O.CHERUVALOOR,, KALLUR VADAKKUMMURY VILLAGE,, THRISSUR DISTRICT. PIN-680 321.
- 4 RAJESH S/O.VIJAYAN
ERAVELIL HOUSE, P.O.CHERUVALOOR,, KALLUR VADAKKUMMURY VILLAGE,, THRISSUR DISTRICT. PIN-680 321.
- 5 SHEEJA W/O.SAJEEV
KATTUKANDATHIL HOUSE, P.O.CHERUVALOOR,, KALLUR VADAKKUMMURY VILLAGE, THRISSUR DISTRICT. PIN-680 321.
- 6 P.A.ISMAIL S/O.ABDUL KHADER
PALAKKAL HOUSE, MUDICKAL DESOM, VAZHAKULAM VILLAGE, ERNAKULAM DISTRICT., PIN-683 547.
- 7 SEBEER S/O.ABDUL KHADER
MUKKADA HOUSE, MUDICKAL DESOM, VAZHAKULAM VILLAGE, ERNAKULAM DISTRICT., PIN-683 547.

BY ADV SRI.T.N.MANOJ

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR HEARING ON 10.11.2022, THE COURT ON 25.10.2023 DELIVERED THE FOLLOWING:

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JUDGMENT

Dated this the 25th day of October, 2023

This appeal is directed against an award passed by Motor Accident Claims Tribunal, Irinjalakkuda (for short 'The Tribunal') on 28/4/2010 in O.P.(M.V) No.1252/2005. The appellant herein is the third respondent in the Original Petition above seeking to set aside the award of the Tribunal. The appellant contends that the Tribunal has committed error by awarding compensation to the respondents on account of the suicide of their mother subsequent to the occurrence of the motor accident.

2. Respondents 1 to 5 in this appeal are the descendants of one Mrs.Santha who committed suicide following the motor accident. The appellant is the insurer of the alleged offending vehicle owned by the 6th respondent and driven by the 7th respondent. The Tribunal disposed the Original Petition with O.P(M.V) Nos.1253/2005 and 1756/2005 by a common award and the appellant herein

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was directed to deposit Rs.3,18,700/- with interest at the rate of 7% per annum from the date of filing of the Original Petition till the date of realization in favour of the petitioner in O.P(M.V) No.1252/2005.

3. A brief description of the facts involved is as follows:

The Motorcycle in which Mrs.Santha was pillion riding with his son was hit by a tempo, a bus and a car and in the impact she sustained serious injuries and subsequently she committed suicide on 24/06/2005 by self immolation. The petitioners in the Original Petition are none other than her children who alleged before the Tribunal that their mother committed suicide due to the mental dejection and disappointment resulting from the injuries sustained by her in the motor accident. The Original Petition was filed by the petitioners arraying the owner of the tempo and its driver as respondents 1 and 2 respectively.

4. The appellant herein was arrayed as the third respondent and entered appearance and filed a written

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statement. The appellant admitted issuance of a valid policy for the tempo van, but disputed negligence of the petitioner, quantum of compensation claimed and their liability to indemnify the insured. They also raised the contention that the death of Mrs.Santha was not due to any mental dejection arising out of the injuries sustained by her in the motor accident. On appreciation of the evidence on record, the Tribunal passed the award. Aggrieved by the quantum fixed above, petitioners preferred the appeal in question.

5. Shri.Lal K. Joseph, the learned counsel for the appellant emphasized that the commission of suicide by the victim has no connection whatsoever with the motor accident occurred. He contends that the medical records produced were not proved by examining the doctor to test genuineness of those. It is further contended by him that what was held by a Division Bench in **Venugopal and Others v. T.L. Paulson and Others (2008 (4) KLT 920)** is not applicable in the present case.

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6. The question needs to be considered in the backdrop of the contention raised is whether the suicide committed by Mrs.Santha has got any connection with the injuries sustained by her in the motor accident. The motor accident was occurred on 15/03/2005 and the victim committed suicide on 24/06/2005. It is evidenced from the medical records marked in evidence that the deceased had sustained serious head injury in the motor accident. As per the report of CT scan marked in evidence as Ext.A5 the victim had suffered haemorrhagic contusion involving tentorium cerebellae and adjacent cerebellar hemisphere on the left side. The main argument advanced was that a grave injury to the brain may cause a neurologic depression. It was urged that any serious injury which would alter the brain physiology and essential neurotransmissions may lead to a state of depression.

7. The deposition of PW1, who is the son of the deceased was that at the time of discharge from the hospital, the doctors had informed them of the likelihood for

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some mental or psychic problems to be caused to his mother in future and that the chances of complete cure is only remote. The evidence on record would not disclose that a challenge was raised against the above version of PW1 by the appellant herein. PW1, being the son of the deceased had said with precision that his mother developed some psychic or mental problems after getting discharged from the hospital and had also memory disturbance. The document marked as Ext.A6 is a medical certificate issued by a doctor from St.James Hospital, Chalakudy and it would also suggest the possibility for some behavioural changes to be developed later. Petitioner was certified as conscious but suffering on account of memory disturbance and gait ataxia. The reliability and relevancy of the document was not considered for the reason that the doctor who issued it was not examined before the court. Ext.A10 is the final report submitted by the police in the crime with reference to the unnatural death of Mrs.Santha and it is stated there that her dejection and disappointment developed out of her thought

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process that she would not be recovered from her physical condition, has culminated in the commission of suicide by her. The final report is the outcome of the investigation held by the police regarding the commission of suicide and when its genuineness was not questioned in any forum by the insurer and other reasons for her to commit suicide having not been brought forth in evidence, there is every justification in relying on it.

8. The dictum in **Venugopal** supra can be followed in the case on hand. The contention raised by the appellant on the irrelevancy and non-applicability of the decision to the case on hand is only to fail on account of the sufficiency of corroborative evidence placed on record by the respondent to substantiate their claim.

9. The version of PW1 with regard to the cause of death can be relied on, since he is the son of the deceased and was not defeated during cross examination. Based on the medical evidence discussed above and the records with reference to the criminal case registered, it can safely be

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concluded that the victim committed suicide due to her mental dejection and disappointment resulted from the serious injuries sustained in the motor accident. Or in otherwords, the ultimate cause of death of Mrs.Santha can be taken as the motor accident met with by her.

10. For the above reasons, the impugned award is maintained.

M.A.C.A fails and is dismissed. There is no order as to costs.

Sd/-

**MARY JOSEPH
JUDGE**

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