

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT :  
THE HONOURABLE MR. JUSTICE J.B.KOSHY  
&  
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 29TH FEBRUARY 2008 / 10TH PHALGUNA 1929

MFA.No. 128 of 2004()

WCC.35/2000 of W.C.C.,KOZHIKODE

APPELLANT: APPLICANTS:

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1. GANGADHARAN NAIR, AGED 61 YEARS,  
PONNAMPARAMBATH, P.O. KARAPARAMBA, VENGARI VILLAGE  
KOZHIKODE TALUK, KOZHIKODE-673 010.
  2. SARADA, AGED 56 YEARS,  
W/O. GANGADHARAN NAIR, PONNAMPARAMBATH,  
P.O. KARAPARAMBA, VENGARI VILLAGE, KOZHIKODE TALUK  
KOZHIKODE-673 010.
  3. MINI ANIL KUMAR, AGED 28 YEARS,  
WIDOW OF ANIL KUMAR, PONNAMPARAMBATH,  
P.O. KARAPARAMBA, VENGARI VILLAGE, KOZHIKODE TALUK  
KOZHIKODE-673 010.
  4. ANAGHA, HINDU MINOR, AGED 6 YEARS,  
REPRESENTED BY MOTHER NATURAL GUARDIAN NO.3 ABOVE,  
PONNAMPARAMBATH, P.O. KARAPARAMBA, VENGARI VILLAGE  
KOZHIKODE TALUK.

BY ADV. SRI.MANJERI SUNDERRAJ

RESPONDENTS: RESPONDENTS:

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1. N.K.SURESHAN, AGED AND FATHER'S NAME NOT  
KNOWN, NARAKATH KALATHINGAL HOUSE,  
KALAPPANKANDIYIL PARAMBA, KARAPARAMBA, KOZHIKODE  
(R.C.OWNER OF LORRY NO.KL-11/3807).
  2. THE NEW INDIA ASSURANCE CO. LTD.,  
I.G. ROAD, BRANCH, SILVER PLAZA, CALICUT-673 004  
(POLICE NO.3176060265302725/11023 DT.07/03/1999).
  3. STATE OF KERALA REP. BY LABOUR COMMISSIONER,  
COMMISSIONER, GOVERNMENT OF KERALA, TRIVANDRUM  
REP. BY GOVERNMENT PLEADER,  
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.A.C.DEVY

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD  
ON 29/02/2008, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**J.B.KOSHY & K.HEMA,JJ.**

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**M.F.A.No.128 of 2004**  
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**Dated this the 29<sup>th</sup> day of February, 2008**

**JUDGMENT**

**Koshy, J.**

Dependants of a deceased workman claimed compensation under the Workmen's Compensation Act, contending that the workman died during the course of employment. The accident occurred while he was employed as a driver. The vehicle was insured. The accident occurred on 26.7.1999. He was 31 year old. Even though it was contended that he was getting Rs.400/- per day, Rs.2,000/- alone can be taken as the the maximum monthly income for calculation of compensation, as per the provisions of the Workmen's Compensation Act as existed on the date of accident. The Supreme Court in **K.S.E.B. V. Valsala**, (AIR 1999 SC 3502) held that the compensation can be calculated only according to the provisions of the Act existing at the time of the accident. Accordingly, compensation was calculated strictly according to the provisions of the Act. 12% interest was also allowed from the date of accident. Therefore, the maximum compensation payable under the Act has already been awarded. We see that there is no reason to interfere

with the award passed by the Commissioner for Workmen's Compensation.

The appeal is dismissed.

**J.B.KOSHY, JUDGE**

**K.HEMA, JUDGE**

vgs.