

C.M.A(MD)No.1199 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 15.04.2026

PRONOUNCED ON: 25.06.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.1199 of 2017

1.R.Velusamy
2.V.Banumathi
3.V.Manju

: Appellants/Petitioners

Vs.

1.Subramani
2.T.K.Marappan
3.M/s Cholamandalam MS General
Insurance Company Ltd.,
Branch Office,
Annai Plaza, No.5, Kovai Road,
Opp., AKC Petrol Pump,
Karur – 639 002.

: Respondents /Respondents

(R2 set exparte before the lower
Court and hence notice may be
dispensed with)



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PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act,1988 against the Judgment and Decree made in M.C.O.P.No.548 of 2009, on the file of the M.A.C.T., - District Judge, Karur, dated 14.07.2011.

For Appellants : Mr.P.Ganapathi Subramanian

For Respondents :Ms.K.R.Shivashankari
for R.3
: R.1 and R.2 – exparte
vide order dated 03.01.2018

JUDGMENT

This Civil Miscellaneous Appeal is directed against the award made in M.C.O.P.No.548 of 2009, dated 14.07.2011, on the file of the Motor Accident Claims Tribunal / District Court, Karur.

2. The appellants/claimants who were awarded with compensation of Rs.13,64,004/- with interest and costs payable by the third respondent/Insurer for the death of one Prabhu, consequent to an



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accident occurred on 04.07.2009, challenged the quantum of compensation awarded at by the Tribunal and claimed enhancement of the same.

3. The learned Counsel for the appellants/claimants would contend that the deceased was admittedly working as a Secondary Grade Teacher at Umayal Middle School, Karur Municipality and was earning Rs.15,718/- per month, that since the deceased was in permanent employment, the Tribunal ought to have added 50% of the income towards future prospects, but the Tribunal without any basis has only added Rs.1,000/- towards future prospects.

4. The learned Counsel would further contend that since the deceased left her father, mother and sister, the Tribunal ought to have deducted only $1/3^{\text{rd}}$ of the income towards personal expenses, but the Tribunal erred in deducting 50% of the income towards personal and living expenses, that the Tribunal failed to consider the fact that the deceased was having bright chance of promotion, as Elementary School Headmater, but the Tribunal had an erroneous assumption holding that the deceased was not holding B.Ed., degree and as such, he was not



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eligible for promotion, rejected the claim of the claimants, that the Tribunal also failed to award any amount towards transportation and damages to clothes and that though the claimants have claimed a sum of Rs.3,00,00,000/- as compensation, the Tribunal has only awarded at Rs. 13,64,004/- and that therefore, the compensation awarded by the Tribunal is liable to be enhanced.

5. The learned Counsel for the third respondent-Insurer would contend that the accident was occurred in the year 2009 and the claim petition was filed in the same year. The learned Counsel would mainly contend that the constitutional Bench of the Hon'ble Supreme Court in *National Insurance Company Vs. Pranay Sethi and others* reported in **2017(2) TNMAC 609 (SC)** has permitted an addition of future prospects and the said principle cannot be applied to the case on hand. The learned Counsel would further submit that since the deceased was a bachelor, the Tribunal has rightly deducted 50% of the income towards the personal and living expenses and that the decision of the Hon'ble Supreme Court in *Sarla Verma and others Vs. Delhi Transport Corporation and another* reported in **2009(2) TNMAC 1 (SC)**, does not stipulate awarding any amount towards transportation and damages to clothes and articles



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and that therefore, the compensation awarded by the Tribunal is very much reasonable and the same is not liable to be interfered with.

6. It is pertinent to note that the deceased admittedly was working as a Secondary Grade Teacher at Umayal Middle School, Karur Municipality and was getting monthly gross salary of Rs.15,718/-. The claimants claiming that the deceased would have obtained many promotions and the salary would have been increased and in order to prove the same, they have summoned and examined the Assistant Educational Officer, Karur as P.W.3. No doubt, as rightly pointed out by the learned Counsel for the claimants, the Tribunal by observing that the deceased was not holding B.Ed., decree has held that he was not eligible for promotion and added Rs.1,000/- towards future prospects and fixed the monthly income at Rs.15,718/-.

7. The Hon'ble Supreme Court settled the legal position with regard to the future prospects in *National Insurance Company Vs. Pranay Sethi and others* reported in **2017(2) TNMAC 609 (SC)** and extended to various categories of employment and in *Pranay Sethi's case*, the addition of income towards future prospects of permanent



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employees is quantified at 50% for the employees below the age of 40 years, an addition of 30% for the age group between 40 to 50 years and an addition of 15% for the age group between 50 to 60 years.

8. Though the accident had occurred in the year 2009 and the appeal came to be filed in the year 2017, considering the legal position laid down by the Hon'ble Supreme Court in *Sarla Verma and others Vs. Delhi Transport Corporation and another* reported in *2009(2) TNMAC 1 (SC)*, as confirmed in *Reshma Kumari and Others Vs. Madan Mohan and another* reported in *(2013)9 Supreme Court Cases 65*, and further explained in *National Insurance Company Vs. Pranay Sethi and others* reported in *2017(2) TNMAC 609 (SC)*, this Court holds that the standardised principles regarding the selection of multiplier, deduction towards the personal expenses and the addition towards future prospects, wherever applicable, are required to be applied for determining just compensation. Since the appeal is pending, the appellate Court can apply the principles laid down in *National Insurance Company Vs. Pranay Sethi and others* reported in *2017(2) TNMAC 609 (SC)*, regarding future prospects, as the appeal is only a continuation of the original proceedings



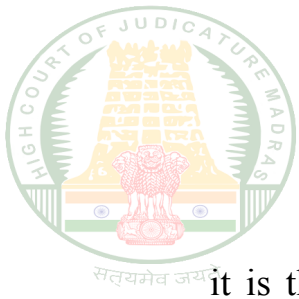
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and the law declared by the Hon'ble Supreme court governs the pending matter as well.

9. In the case on hand, the Tribunal has fixed the age of the deceased at 26 years and the same has not been disputed by the respondent. Considering the nature of the employment of the deceased and as per the dictum laid down by the Hon'ble Supreme Court in ***Pranay Sethi's case***, 50% of the income is liable to be added towards the future prospects and on such addition, the income would work out to Rs.23,577/- (Rs.15,718/- + Rs.7,859/-) and the annual income would come to Rs.2,82,924/- (Rs.23,577x12). Since the deceased was a bachelor, the Tribunal has rightly deducted 50% of the income towards personal and living expenses and after such deduction, the annual contribution to the family would be Rs.1,41,462/-.

10. As rightly contended by the learned counsel appearing for the claimants, the Tribunal, taking into account the age of the deceased's mother, applied the multiplier of "13" for computing the loss of dependency. The said approach is legally unsustainable. As held by the Hon'ble Supreme Court in ***Sarla Verma v. Delhi Transport Corporation***,



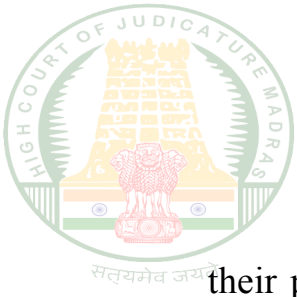
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It is the age of the deceased, and not that of the dependants, which is relevant for determining the appropriate multiplier. Since the deceased was aged 26 years at the time of the accident, the appropriate multiplier applicable is "17". Accordingly, the loss of dependency is re-assessed at Rs.24,04,854/- (Rs.1,41,462 $\times$ 17).

11. The Tribunal awarded Rs.20,000/- each for the claimants 1 and 2 towards loss of love and affection and Rs.10,000/- to the third claimant and also awarded Rs.10,000/- for funeral expenses.

12. Our Hon'ble Supreme Court in Pranay Sethi's case has permitted to award Rs.40,000/- towards spousal consortium. But, subsequently, Hon'ble Supreme Court in Magma General Insurance Company Ltd, Vs. Nanu Ram alias Chuhru Ram and others reported in (2018) 18 SCC 130, has held that the right to consortium would include the company, care, help, comfort, love and affection, guidance, solace, etc., which is a loss to his family. Honourable Supreme Court interpreted consortium to be a compendious term, which encompasses (i) spousal consortium, to be awarded to the surviving spouse, (ii) parental consortium to be awarded to the children upon the premature death of



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their parents and (iii) filial consortium to be awarded to the parents for the loss of their children. Recently, Hon'ble Apex Court in The New India Assurance Company Ltd. Vs. Smt.Somwati and others, has reiterated the above position and further held that the amount to be awarded for loss of consortium will be as per the amount fixed in Pranay Sethi's case. But, at the same time, they have specifically observed that no amount should be awarded under the separate head of loss of love and affection.

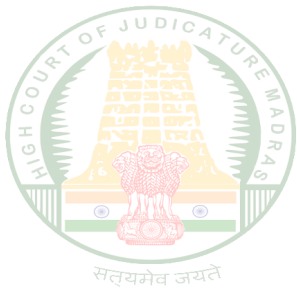
13. Considering the above, since the claimants 1 and 2 are the parents of the deceased, they are certainly entitled to filial consortium of Rs.40,000/- each. Moreover, they are entitled to get Rs.15,000/- for funeral expenses and Rs..15,000/- towards loss of estate under the conventional heads. Hence, the claimants are entitled to get total compensation of Rs.25,14,854/- as follows:



Sl. No	Description	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.	Award confirmed or enhanced or granted
1	Loss of income	13,04,004	24,04,854	enhanced
2	Loss of consortium		80,000	granted
3	Loss of love and affection	50,000		deleted
3	Loss of estate		15,000	granted
5	Funeral expenses	10,000	15,000	enhanced
	Total	Rs. 13,64,004/-	Rs. 25,14,854/-	enhanced

14. Though the claimants have restricted their appeal to the value of Rs.19,75,340/-, this Court is inclined to enhance the compensation as per the dictum laid down by the Hon'ble Supreme Court in ***Surekha and others vs. Santosh and others (C.A.No.476 of 2020 dated 21.01.2020)*** wherein, the Hon'ble Apex Court has held as follows:-

“2. This appeal takes exception to the judgment and order dated 04.01.2019 passed by the High Court of Judicature at Bombay, Bench at Aurangabad in First Appeal No.2564 of 2016, whereby the High Court, even though agreed with the stand of the appellants that just compensation amount ought to be Rs.49,85,376/- (Forty-Nine Lakh Eighty-Five Thousand Three Hundred Seventy-Six Only), however, declined to grant enhancement merely



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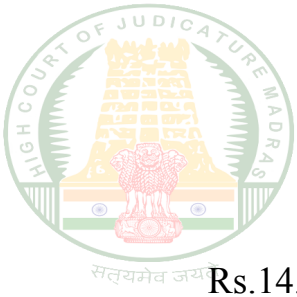


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on the ground that the appellants had failed to file cross-appeal.

3. By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants.”

15. In the result, the Civil Miscellaneous Appeal is allowed. The compensation awarded by the Tribunal to the claimants is enhanced from **Rs.13,64,004/- to Rs. 25,14,854/-** along with interest at 7.5%pa., from the date of petition till the date of realization and costs, excluding the default period if any. The third respondent – Insurance Company is directed to deposit the entire award amount along with accrued interest and costs, to the credit of above said M.C.O.P.No.548 of 2009, on the file of the Motor Accident Claims Tribunal /District Court, Karur, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment and on such deposit, the first claimant is entitled to withdraw Rs.8,00,000/- along with proportionate interest and costs and the second claimant is entitled to withdraw



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Rs.14,00,000/- along with proportionate interest and costs and the third claimant is entitled to withdraw Rs.3,14,854/- along with proportionate interest and costs. The parties are directed to bear their own costs. The appellants/claimants are directed to pay the balance Court fees for the enhanced amount, as per the existing Rules.

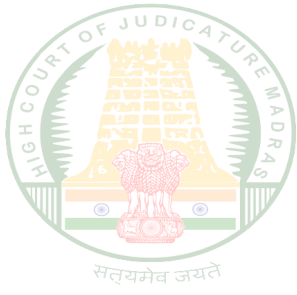
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NCC : Yes : No
Index : Yes : No
Internet : Yes : No

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To

1. The Motor Accident Claims Tribunal /
District Court, Karur.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.



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K.MURALI SHANKAR,J.

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PRE-DELIVERY JUDGMENT MADE IN

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