IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5.2.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Civil Miscellaneous Appeal Nos.2992 to 2998 of 2013
and
M.P.No.1 of 2013 in all C.M.A.Nos.2992 to 2998 of 2013
and
M.P.No.1 of 2015 in C.M.A.No.2998 of 2013

CMA No.2992 of 2013:-

The Managing Director,
Tamil Nadu State Transport Corporation,
Division III,
Kancheepuram. ... Appellant/1st Respondent

Vs.

1.Rajeswari(died),
2.Minor Priya,
3.Minor Velan,
4.Minor Suji,
5.Chandra.
6.Bim Raj.

(As per order dated 5.2.2016
made in M.P.No.1 of 2015
the 5th respondent is appointed
as guardian for minor
respondents 2 to 4).

(6th respondent was set exparte
in Lower court) ... Respondents/Petitioners
1 to 5 and 2nd Respondent

CMA No.2993 of 2013:-

The Managing Director,
Tamil Nadu State Transport Corporation,
Division III,
Kancheepuram. ... Appellant/Respondent

Vs.

Venkatesan. ... Respondent/Petitioner

CMA No.2994 of 2013:-

The Managing Director,
Tamil Nadu State Transport Corporation,
Division III,
Kancheepuram. ... Appellant/Respondent

Vs.

1.G.Mani (died).
2.Shanthi,
3.Kalpana,
4.Latha.
(As per order dated 5.2.2016
made in M.P.No.3 of 2015,
the death of the sole respondent/
petitioner is recorded. Respondents
2 to 4 are added as legal
representatives of the sole
respondent/petitioner in the appeal)

... Respondents/Petitioner and
L.Rs. of the deceased petitioner

CMA No.2995 of 2013:-

The Managing Director,
Tamil Nadu State Transport Corporation,
Division III,
Kancheepuram. ... Appellant/Respondent

Vs.

Venkattaiyan. ... Respondent/Petitioner

CMA No.2996 of 2013:-

The Managing Director,
Tamil Nadu State Transport Corporation,
Division III,
Kancheepuram. ... Appellant/Respondent

Vs.

1.Shanthi,
2.G.Mani (died)
(As per memo dated 6.8.2015) ... Respondents/Petitioners

CMA No.2997 of 2013:-

The Managing Director,
Tamil Nadu State Transport Corporation,
Division III,
Kancheepuram. ... Appellant/Respondent

Vs.

1.N.Banumathi,
2.Minor Sai Krishnan,
3.Minor Sai Saran.

(Minor respondents are represented by mother and natural guardian 1st petitioner/1st respondent) ... Respondents/Petitioners

CMA No.2998 of 2013:-

The Managing Director,
Tamil Nadu State Transport Corporation,
Division III,
Kancheepuram. ... Appellant/Respondent

Vs.

Kathirvelu. ... Respondent/Petitioner

Civil Miscellaneous Appeal No.2992 of 2013 is filed under Section 173 of Motor Vehicles Act, 1988 against the common award and decree dated 3.1.2011 passed in M.C.O.P.No.372 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpattu.

Civil Miscellaneous Appeal No.2993 of 2013 is filed under Section 173 of Motor Vehicles Act, 1988 against the common award and decree dated 3.1.2011 passed in M.C.O.P.No.374 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpattu.

Civil Miscellaneous Appeal No.2994 of 2013 is filed under Section 173 of Motor Vehicles Act, 1988 against the common award and decree dated 3.1.2011 passed in M.C.O.P.No.376 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpattu.

Civil Miscellaneous Appeal No.2995 of 2013 is filed under Section 173 of Motor Vehicles Act, 1988 against the common award and decree dated 3.1.2011 passed in M.C.O.P.No.378 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpattu.

Civil Miscellaneous Appeal No.2996 of 2013 is filed under Section 173 of Motor Vehicles Act, 1988 against the common award and decree dated 3.1.2011 passed in M.C.O.P.No.380 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpattu.

Civil Miscellaneous Appeal No.2997 of 2013 is filed under Section 173 of Motor Vehicles Act, 1988 against the common award and decree dated 3.1.2011 passed in M.C.O.P.No.382 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpattu.

Civil Miscellaneous Appeal No.2998 of 2013 is filed under Section 173 of Motor Vehicles Act, 1988 against the common award and decree dated 3.1.2011 passed in M.C.O.P.No.386 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpattu.

CMA No.2992 of 2013:-

For appellant : Mr.V.Ramesh

For respondents 1 to 5 : Mrs.Ramya V.Rao for Mr.S.Chakravarthi,

For 6th respondent : Ex parte before Tribunal

CMA No.2993 of 2013:-

For appellant : Mr.V.Ramesh

For respondent : Mrs.Ramya V.Rao for Mr.S.Chakravarthi, CMA No.2994 of 2013:-

For appellant	:	Mr.V.Ramesh
For respondent	:	Mrs.Ramya V.Rao for Mr.S.Chakravarthi,

CMA No.2995 of 2013:-

For appellant	:	Mr.V.Ramesh
For respondent	:	Mrs.Ramya V.Rao for Mr.S.Chakravarthi,

CMA No.2996 of 2013:-

For appellant	:	Mr.V.Ramesh
For 1st respondent	:	Mrs.Ramya V.Rao for Mr.S.Chakravarthi,
For 2nd respondent	:	Died vide memo dated 6.8.2015

CMA No.2997 of 2013:-

For appellant	:	Mr.V.Ramesh
For respondents 1 to 3	:	Mrs.Ramya V.Rao for Mr.S.Chakravarthi,

CMA No.2998 of 2013:-

For appellant	:	Mr.V.Ramesh
For respondent	:	Mrs.Ramya V.Rao for Mr.S.Chakravarthi,

COMMON JUDGEMENT

(Judgment of the Court was delivered by R.SUDHAKAR,J.)

1.1 C.M.A.No.2992 of 2013:- This appeal is filed by the Tamil Nadu State Transport Corporation challenging the common award and decree dated 3.1.2011 passed in M.C.O.P.No.372 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpattu.

1.2. C.M.A.No.2993 of 2013:- This appeal is filed by the Tamil Nadu State Transport Corporation challenging the common award and decree dated 3.1.2011 passed in M.C.O.P.No.374 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpattu.

1.3. C.M.A.No.2994 of 2013:- This appeal is filed by the Tamil Nadu State Transport Corporation challenging the common award and decree dated 3.1.2011 passed in M.C.O.P.No.376 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpattu.

1.4. C.M.A.No.2995 of 2013:- This appeal is filed by the Tamil Nadu State Transport Corporation challenging the common award and decree dated 3.1.2011 passed in M.C.O.P.No.378 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpattu.

1.5. C.M.A.No.2996 of 2013:- This appeal is filed by the Tamil Nadu State Transport Corporation challenging the common award and decree dated 3.1.2011 passed in M.C.O.P.No.380 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpattu.

1.6. C.M.A.No.2997 of 2013:- This appeal is filed by the Tamil Nadu State Transport Corporation challenging the common award and decree dated 3.1.2011 passed in M.C.O.P.No.382 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpattu.

1.7. C.M.A.No.2998 of 2013:- This appeal is filed by the Tamil Nadu State Transport Corporation challenging the common award and decree dated 3.1.2011 passed in M.C.O.P.No.386 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpattu.

2.1. All the seven Civil Miscellaneous Appeals arise out of a common Award. Hence, all the seven Civil Miscellaneous Appeals are taken up together and disposed of by this common judgment.

2.2. Heard Mr.V.Ramesh, learned counsel appearing for the appellant in all the appeals and Mrs.Ramya V.Rao for Mr.S.Chakravarthi, learned counsel appearing for the respondents in all the appeals.

2.3. The common brief facts in all the Civil Miscellaneous Appeals are that on 22.2.2004, at about 22.30 hours, the deceased Hari was driving Car bearing Registration No.T.S.K.7579. One Thiru Venkatesan (petitioner in MCOP No.374 of 2004), Thiru Nagaraj, Minor Jeeva, Thiru Kathirvelu (petitioner in MCOP No.386 of 2004), Thiru Venkattiyan (petitioner in MCOP No.378 of 2004) and Thiru Mani (petitioner in MCOP No.376 of 2004) were travelling in that car. The deceased Hari drove the car with moderate speed proceeding from Kalpakkam to Chengalpattu. At that time, the bus belonging to the appellant transport corporation driven by its driver in a rash and negligent manner hit against the car. In that accident, the car driver Hari, the occupants, Nagaraj and Minor Jeeva died on the spot. The other occupants Venkatesan, Kathirvelu, Venkattiyan and Mani sustained multiple fracture in that accident. A criminal case was filed against the driver of the appellant transport corporation bus in Cr.No.33/2004 under Sections 279, 337, 338 and 304(A) IPC before the Sadras Police.

2.4. C.M.A.No.2992 of 2013: The wife, three children and the mother of the deceased Hari filed MCOP No.372 of 2004 claiming compensation stating that the deceased Hari was earning a sum of Rs.4,000/- per month towards salary and Rs.30/- daily batta. Though the compensation was calculated in a sum of Rs.9,15,000/-, the claimants restricted the claim to a sum of Rs.5,00,000/-.

2.5. C.M.A.No.2993 of 2013:- The injured Venkatesan filed MCOP No.374 of 2004 claiming compensation stating that he was earning a sum of Rs.3,500/- per month by doing labour work. Though the compensation was calculated in a sum of Rs.2,43,000/-, the claimant restricted the claim to a sum of Rs.1,50,000/-.

2.6. C.M.A.No.2994 of 2013:- The injured G.Mani filed M.C.O.P.No.376 of 2004 claiming compensation stating that he was earning a sum of Rs.4,000/- per month by selling vegetables. Though the compensation was calculated in a sum of Rs.2,34,000/-, the claimant restricted the claim to a sum of Rs.1,50,000/-.

2.7. C.M.A.No.2995 of 2013:- The injured Venkattaiyan, filed M.C.O.P.No.378 of 2004 claiming compensation stating that he was earning a sum of Rs.4,000/- by doing labour work. Though the compensation was calculated in a sum of Rs.2,63,000/-, the claimant restricted the claim to a sum of Rs.1,50,000/-.

2.8. C.M.A.No.2996 of 2013:- The father and mother of the deceased Minor Jeeva filed M.C.O.P.No.380 of 2004 claiming compensation stating that their son was aged 7 years and studying 2nd standard at the time of accident. Though the compensation was calculated in a sum of Rs.3,55,500/-, the claimants restricted the claim to a sum of Rs.2,00,000/-.

2.9. C.M.A.No.2997 of 2013:- The wife, and two minor sons of the deceased Nagaraj filed M.C.O.P.No.382 of 2004 claiming compensation stating the deceased Nagaraj was earning a sum of Rs.10,000/- per month by doing contract work and electrical lightings and fittings at the time of accident. Though the compensation was calculated in a sum of Rs.16,15,000/-, the claimants restricted the claim to a sum of Rs.10,00,000/-.

2.10. C.M.A.No.2998 of 2013:- The injured Kathirvelu, filed M.C.O.P.No.386 of 2004 claiming compensation stating that he was earning a sum of Rs.5,000/- by doing financial business. Though the compensation was calculated in a sum of Rs.11,50,000/-, the claimants restricted the claim to a sum of Rs.7,50,000/-.

3. The claim was resisted by the appellant Tamil Nadu State Transport Corporation by filing counter denying the allegations made by the claimants. It is stated by the appellant Tamil Nadu State Transport Corporation that the accident occurred solely due to the reckless act of the driver of the Car. Appellant Tamil Nadu State Transport Corporation also denied the income, monthly contribution to the family and age of the deceased and also the injured and stated that the compensation claimed in all the claim petitions is excessive.

4. Since all the claims arise out of the same accident they were taken up together by recording evidence in common and a common Award was passed.

5.1. In support of the claim, before the Tribunal, the first claimant in M.C.O.P.No.372 of 2004, the wife of the deceased Hari was examined as P.W.1. The injured Mani (petitioner in MCOP No.376 of 2004), the injured Venktesan (petitioner in MCOP No.374 of 2004), the injured K.Venkattaiyan (petitioner in MCOP 378 of 2004), the injured Kathirvelu (petitioner in MCOP No.386 of 2004) were examined as P.Ws.2 to 4 and 6 respectively. Banumathi, the wife of the deceased Nagaraj (first petitioner in MCOP No.382 of 2004) was examined as P.W.5. The Doctors, namely, Dr.S.Gopalan (MCOP No.386 of 2004), Dr.T.S.Kalkura (MCOP Nos.386 and 378 of 2004) and Dr.Kannan Isac (MCOP Nos.374 and 376 of 20104) were examined as P.Ws.7 to 9 for the injury sustained by the injured claimants in the accident. Exs.P.1 to P.59 were marked and the details of the which are as follows:-

Ex.P-1 / 23.2.2004 Certified copy of FIR (MCOP No.372/2004)

Ex.P-2 / 25.2.2005 Certified copy of charge sheet
Ex.P-3 / 23.2.2004 Certified copy of Post-mortem Certificate

Ex.P-4 /	---	Driving Licence of B.Hariharan
Ex.P-5 /	21.7.2004	Legal Heir Certificate of deceased Hari
Ex.P-6 /	26.2.2004	Drug Card, CMC Hospital, Chengalpattu (MCOP 376/04)
Ex.P-7 /	2.3.2004	Out patient Card, CMC Hospital, Chengalpattu
Ex.P-8 /	23.7.2000	Certified copy of Accident Register.
Ex.P-9 /	23.2.2004	Certified copy of Post-mortem certificate (MCOP No.380/04.
Ex.P-10/	---	School Record Sheet of Jeeva
Ex.P-11/	25.5.2004	Legal Heir Certificate of deceased Jeeva
Ex.P-12/	26.2.2004	Drug Card, CMC Hospital, Chengalpattu (MCOP 374/04)
Ex.P-13/	14.9.2004	Out patient Card, CMC Hospital, Chengalpattu.
Ex.P-14/	14.9.2004	Out patient Card, CMC Hospital, Chenalpattu.
Ex.P-15/	1.03.2004	Discharge summary, Padma Clinic & Nursing Home, Madras (MCOP 378/04).
Ex.P-16/	23.02.2004	Certified copy of Accident Register
Ex.P-17/	---	Medical Receipts
Ex.P-18/	---	X-Ray
Ex.P-19/	---	Scan Report
Ex.P-20/	23.02.2004	Certified copy of Post-mortem Certificate (MCOP 382/04)
Ex.P-21/	28.7.2004	Legal Heir Certificate of deceased Nagaraj.
Ex.P-22/	30.6.1980	Higher Secondary Mark Sheet of Nagaraj
Ex.P-23/	21.3.1983	Decree Mark Sheet of Nagaraj.
Ex.P-24/	216.2.1983	Typewriting in English Lower Grade Certificate of Nagaraj.

Ex.P-25/	17.2.1986	Typewriting in English Higher Grade Certificate of Nagaraj.
Ex.P-26/	27.02.1986	Typewriting in Tamil Lower Grade Certificate of Nagaraj.
Ex.P-27/	29.12.2000	Commercial Taxes Department Order to Sun Marketing.
Ex.P-28/	28.09.2001	Annual Return of Turnover to Sun Marketing.
Ex.P-29/	---	Invoice of Bharat Light & Fitting Industries.
Ex.P-30/	15.3.2004	Discharge Summary, Sarala Neurology Hospital & Research Centre, Chennai-10(MCOP 386/04).
Ex.P-31/	30.11.2004	Discharge Summary, Dr.Achanta Lakshmipathi Neurosurgical Centre, Madras - 113.
Ex.P-32/	23.2.2004	C.T.Scan of Brain, Sarala Scan Centre, Chennai-10.
Ex.P-33/	3.3.2004	MRI Scan - Brachial Plexus, Bharat Scans, Chennai-32.
Ex.P-34/	23.2.2004	C.T.Scan - Cervical Spine, Sarala Scan Centre, Chennai-10.
Ex.P-35/	5.3.2004	Electrodiagnostic Result, Vijaya Health Centre, Chennai-26.
Ex.P-36/	---	Lab Reports, Premier Diagnostic Centre Chennai-10.
Ex.P-37/	---	X Rays.
Ex.P-38/	---	Scan Reports.
Ex.P-39/	15.3.2004	Treatments of Sarala Neurology Hospital & Research Centre, Chennai-10.
Ex.P-40/	15.3.2004	Scan Receipts of Sarala Scan Centre, Chennai-10.
Ex.P-41/	7.5.2004	Medical Receipt of Bethesda Dental Specialty Centre.
Ex.P-42/	---	Medical Receipts of Bharat Scans & Neuro Clinic.

Ex.P-43/	---	Doctors Receipts (7 series)
Ex.P-44/	---	Receipts of The Voluntary Health Services & Dr.A.Lakshmipathi Neurosurgical Centre
Ex.P-45/	24.11.2004	Out Patient Receipt/Invoice, Malar Hospital, Chennai-20.
Ex.P-46/	23.2.2004	Trip Sheet & Receipt of Trauma Care Consortium.
Ex.P-47/	---	Cash Bills of Padma Clinic Pharmacy & Sarala Neurology Hospital & Research Centre.
Ex.P-48/	---	Cash Bills of Padma Clinic Pharmacy & Sarala Neurology Hospital & Research Centre.
Ex.P-49/	---	Cash Bills of Padma Clinic Pharmacy & Sarala Neurology Hospital & Research Centre.
Ex.P-50/	25.11.2004	Cash Bill of Vimta Labs.
Ex.P-51/	---	Bills of Guna Pharmacy, Chennai-113.
Ex.P-52/	20.7.2010	Disability Certificate of Kathirvelu issued by Dr.S.Gopalan.
Ex.P-53/	14.8.2010	Disability Certificate of Venkattaiyan issued by Dr.T.S.Kalkura (MCOP 378/04).
Ex.P-54/	14.8.2010	Disability Certificate of Kathirvelu issued by Dr.T.S.Kalkura (MCOP 386/04)
Ex.P-55/	---	Mastication issued by Dr.T.S.Kalkura (MCOP 386/04.
Ex.P-56/	17.8.2010	Disability Certificate of Venkatesan issued by Dr.S.Kannan Isac (MCOP 374/04).
Ex.P-57/	17.8.2010	X-Ray (MCOP 374/04)
Ex.P-58/	17.8.2010	Disability Certificate of G.Mani issued by Dr.S.Kannan Isac (MCOP 376/04).
Ex.P-59/	16.08.2010	X Ray (MCOP 376/04).

5.2. On the side of the Appellant Tamil Nadu State Transport Corporation, one Mr.P.Pazhani was examined as R.W.1. No exhibits were marked on behalf of the appellant Transport Corporation.

6. The Tribunal, on an analysis of evidence and the materials placed before it, held that the accident had occurred solely due to the rash and negligent driving of the driver of the appellant Transport Corporation Bus, and awarded compensation, fastening liability to pay compensation on the appellant. Aggrieved against the said common award, these appeals have been filed by the appellant Tamil Nadu State Transport Corporation.

7. The finding of negligence on the part of the driver of the appellant Transport Corporation who is responsible for the accident and the injury, death, and consequential liability fixed on the appellant transport corporation to compensate the claimants is not seriously disputed and such finding is confirmed. The appeals are canvassed mainly challenging the quantum of compensation.

8.1. C.M.A.No.2992 of 2013:- It is stated that the age of the deceased Hari was 29 years and he was earning a sum of Rs.4,000/- per month and a sum of Rs.30/- per day towards batta. Accordingly, the Tribunal fixed the monthly income of the deceased Hari at Rs.4,900/-. After deducting 1/3 towards personal expenses of the deceased, the Tribunal fixed the loss of income to the family of the deceased at Rs.3,500/- per month. Considering the age of the deceased Hari at 29 years, the Tribunal adopted multiplier "18" and calculated the loss of pecuniary benefits to the dependents of the deceased Hari at Rs.7,56,000/- (Rs.3,500 x 12 x 18 = Rs.7,56,000/-). In addition, the Tribunal granted compensation under conventional heads. In all the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of pecuniary benefits to the dependents of the deceased (Rs.3,500 x 12 x 18)	Rs.7,56,000/-
2	Funeral expenses	Rs. 10,000/-
3	Transport to Hospital expenses	Rs. 5,000/-
4	Damage to Clothing and articles	Rs. 5,000/-

Sl. No.	Head	Amount granted by the Tribunal
5	Loss of estate	Rs. 10,000/-
6	Loss of Consortium to the wife of the deceased, the 1st petitioner/1st respondent	Rs. 30,000/-
7	Loss of Love and affection to 3 children and mother, the respondents 2 to 5/petitioners 2 to 5 (Rs.10,000 x 4 = Rs.40,000/-)	Rs. 40,000/-
	Total	Rs.8,56,000/-

8.2. It is recorded in the award of the Tribunal, that based on 2009(2)TN MAC 641, Tribunal can award more amount than claimed.

8.3. In appeal, it is pointed out that the income of the deceased Hari, a car driver, was taken as Rs.4,900/- per month. As such, the fixation of income of the deceased at Rs.4,900/- per month is excessive and therefore, the compensation has to be reduced.

8.4. We are not inclined to interfere with the award of the Tribunal for the following reasons:-

(1) Considering the age of the deceased at 29 years and the decision of the Apex Court in the case of Santosh Devi - vs. - National Insurance Company Ltd. and others reported in (212)6 SCC 421 in para 14, the future prospects can be pegged at 30%. Para 14 of the decision reads as follows:-

> "14.We find it extremely difficult to fathom any rationale for the observation made in paragraph 24 of the judgment in Sarla Verma's case that where the deceased was self-employed or was on a fixed salary without provision for annual increment, etc., the Courts will usually take only the actual income at the time of death and a departure from this rule should be made only in rare and exceptional cases involving special circumstances. In our view, it will be nave to say that the wages or total emoluments/income of a person who is self-employed or who is employed on a fixed salary without provision for annual increment, etc., would remain the same throughout his life. The rise in the cost of living affects

everyone across the board. It does not make any distinction between rich and poor. As a matter of fact, the effect of rise in prices which directly impacts the cost of living is minimal on the rich and maximum on those who are self-employed or who get fixed income/emoluments. They are the worst affected people. Therefore, they put extra efforts to generate additional income necessary for sustaining their families. The salaries of those employed under the Central and State Governments and their agencies/instrumentalities have been revised from time to time to provide a cushion against the rising prices and provisions have been made for providing security to the families of the deceased employees. The salaries of those employed in private sectors have also increased manifold. Till about two decades ago, nobody could have imagined that salary of Class IV employee of the Government would be in five figures and total emoluments of those in higher echelons of service will cross the figure of rupees one lac. Although, the wages/income of those employed in unorganized sectors has not registered a corresponding increase and has not kept pace with the increase in the salaries of the Government employees and those employed in private sectors but it cannot be denied that there has been incremental enhancement in the income of those who are self-employed and even those engaged on daily basis, monthly basis or even seasonal basis. We can take judicial notice of the fact that with a view to meet the challenges posed by high cost of living, the persons falling in the latter category periodically increase the cost of their labour. In this context, it may be useful to give an example of a tailor who earns his livelihood by stitching cloths. If the cost of living increases and the prices of essentials go up, it is but natural for him to increase the cost of his labour. So will be the cases of ordinary skilled and unskilled labour, like, barber, blacksmith, cobbler, mason etc. Therefore, we do not think that while making the observations in the last three lines, of paragraph 24 of Sarla Verma's judgment, the Court had intended to lay down an absolute rule that there will be no addition in the income of a person who is self-employed or is engaged on fixed wages will also get 30 per cent increase in his total income over a period of time and if he/she becomes victim of accident then the same formula deserves to be applied for calculating the amount of compensation."

In view of the above decision if 30% is added, the monthly income of the deceased will be more.

(2) The Tribunal granted a sum of Rs.30,000/- only towards loss of consortium to the wife of the deceased, which is very low.

(3) Meagre amount of Rs.10,000/- each has been granted towards loss of love and affection to the three children and mother.

8.5. There is no objection with regard to interest granted at 7.5% per annum and the same is confirmed.

8.6. In view of the above, the award of the Tribunal is confirmed.

9.1. C.M.A.No.2993 of 2013:- In this case, based on 2010 (1) TN MAC 548, the Tribunal adopted multiplier method in granting compensation for the injury suffered by the claimant. The injured Venkatesan was aged 27 years at the time of accident. It is stated that the injured was earning Rs.3,500/- per month as labourer. After deducting 1/3rd towards personal expenses the Tribunal fixed the loss of income of the injured at Rs.2,340/- per month. As per disability certificate Ex.P-56 the Tribunal fixed the disability at 25% permanent partial disability. Accordingly, the Tribunal fixed the compensation in a sum of Rs.1,26,360/- towards disability. The Tribunal also granted compensation on the following heads with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	For 25% permanent Partial Disability (Rs.2,340 x 12 x 18 x 25/100 = Rs.1,26,360/-)	Rs.1,26,320/-
2	For Transport to Hospital expenses	Rs. 10,000/-
3	For extra nourishment expenses	Rs. 10,000/-

Sl. No.	Head	Amount granted by the Tribunal
4	Damage to Clothing and articles	Rs. 10,000/-
5	For pain and suffering	Rs. 20,000/-
6	For mental agony	Rs. 10,000/-
	Total	Rs.1,86,360/-

9.2. It is recorded in the award of the Tribunal, that based on 2009(2)TN MAC 641, Tribunal can award more amount than claimed.

9.3. In appeal, it is pointed out that the Tribunal is not correct in applying multiplier method for 25% disability. Further, the amount granted towards pain and suffering and another sum of Rs.10,000/- towards mental agony are not proper and not reasonable. Therefore, the compensation has to be reduced.

9.4. There is no finding by the Tribunal that by the nature of injury suffered by the injured claimant his earning capacity and employment is totally affected. There is no finding that the disablement in this case assessed by the doctor is such that his earning capacity is lost for the rest of his life. There is no material to show that the injured claimant will be idle for the rest of his life and consequently, there will be a total loss of income. Therefore, the question of applying multiplier method in this case does not arise as per the decision of the Division Bench of this Court in United India Insurance Co. Ltd., - vs. - Veluchamy and another reported in 2005 ACJ 1483. The multiplier method adopted by the Tribunal, therefore, clearly is an error. Accordingly, the compensation granted based on multiplier method cannot be justified.

9.5. In the decision rendered in the case of Sankara Subbu vs. Selvi and other, [C.M.A.(MD)No.538 of 2009], this court has held as follows:-

> "10. ...... While the method adopted by the Tribunal for computing the compensation is not approved, then it has to be found out, what is the compensation payable to the appellant. In this regard, this court has categorically held in Managing Director, Tamil Nadu State Transport Corporation (Division-2) Ltd. , Dharmapuri, vs. J.Senthil Kumar reported in 2008 (1) TN MAC 499 and in Metropolitan Transport Corporation Ltd. vs.

N.Shanmugam reported in 2008(NOC) 24 67 (MAD) that in the case of injuries relating to partial and permanent disablement, the compensation could be arrived at by granting Rs.1000/- to 2000/- for each percentage of disability depending upon various circumstances ... .

11.The following passage from Metropolitan Transport Corporation Ltd. vs. N.Shanmugam reported in 2008(NOC) 2467 is also extracted hereunder:-

"Moor Vehicles Act (59 of 1988), S.168 – Assessment of Compensation – Injuries resulting in permanent disability – Awarding lump sum compensation at uniform rate irrespective of age of injured – Tantamounts to treating in unequals equally – compensation to be awarded in case of permanent disability may range from Rs.1,000/- to Rs.2,000/- per one percentage disability – Maximum rate shall be applicable in case of young people – Minimum shall be applicable in case of elders."

9.6. In view of the above decision, for 25% disability a sum of Rs.50,000/- (Rs.2,000/- x 25 = Rs.50,000/-) is granted as compensation.

9.7. learned Counsel for the claimant has stated that for pain and suffering the Tribunal granted a meagre sum of Rs.20,000/-. In the petition it is stated that the injured claimant has suffered the following injuries:-

"Multiple grievous injuries all over the bodies.

2. Fracture in Distal 1/3rd of Clavicle"

9.8. Considering the nature of injury suffered, it is just and reasonable to grant a sum of Rs.40,000/- as compensation towards pain and suffering. Learned counsel for the claimant has also stated that the claimant may be awarded a sum of Rs.20,000/- towards loss of amenities. Considering the nature of fracture in the clavicle region and to meet the ends of justice a sum of Rs.20,000/- is granted towards loss of amenities.

9.9. The compensation granted under the other heads are just and reasonable. Accordingly, the compensation granted by the Tribunal is modified as follows:-

Sl. No.	Head	Amount granted by the Tribunal	Amount granted by this Court
1	For 25% permanent Partial Disability (Rs.2,340 x 12 x 18 x 25/100 = Rs.1,26,360/-)	Rs.1,26,320/-	Rs. 50,000/-
2	For Transport to Hospital expenses	Rs. 10,000/-	Rs. 10,000/-
3	For extra nourishment expenses	Rs. 10,000/-	Rs. 10,000/-
4	Damage to Clothing and articles	Rs. 10,000/-	Rs. 10,000/-
5	For pain and suffering	Rs. 20,000/-	Rs. 40,000/-
6	For mental agony	Rs. 10,000/-	Rs. 10,000/-
7	For loss of amenities	--	Rs. 20,000/-
	Total	Rs.1,86,360/-	Rs.1,50,000/-

9.10. There is no objection with regard to interest granted at 7.5% per annum and the same is confirmed.

9.11. In view of the above, the award of the Tribunal is modified as above.

10.1. C.M.A.No.2994 of 2013:-

In this case also based on 2010 (1) TN MAC 548, the Tribunal adopted multiplier method in granting compensation for the injury suffered by the claimant. The injured G.Mani was aged 48 years at the time of accident. It is stated that the injured G.Mani, was earning Rs.4,000/- per month by doing vegetable vending. However, the Tribunal based on 2010(1) TN MAC 512, took the Notional Income at Rs.3,000/- per month. After deducting 1/3rd towards personal expenses the Tribunal fixed the income of the injured at Rs.2,000/- per month. As per disability certificate Ex.P-58 the Tribunal fixed the disability at 25% permanent partial disability. Based on the age of the injured, the Tribunal adopted multiplier "15". Accordingly, by adopting multiplier method the Tribunal fixed the compensation in a sum of Rs.90,000/- towards disability. The Tribunal also granted compensation on the following heads with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	For 25% permanent Partial Disability (Rs.2,000 x 12 x 15 x 25/100 = Rs.90,000/-)	Rs. 90,000/-
2	For Transport to Hospital expenses	Rs. 10,000/-
3	For extra nourishment expenses	Rs. 20,000/-
4	Damage to Clothing and articles	Rs. 3,000/-
5	For pain and suffering	Rs. 20,000/-
6	For mental agony	Rs. 10,000/-
	Total	Rs.1,53,000/-

10.2. It is recorded in the award of the Tribunal, that based on 2009(2)TN MAC 641, Tribunal can award more amount than claimed.

10.3. In appeal, it is pointed out that the Tribunal is not correct in applying multiplier method for 25% disability. Further, the amount of Rs.20,000/- granted towards pain and suffering and another sum of Rs.10,000/- towards mental agony are not proper and not reasonable. Therefore, the compensation has to be reduced.

10.4. There is no finding by the Tribunal that by the nature of injury suffered by the injured claimant his earning capacity and employment is totally affected. There is no finding that the disablement in this case assessed by the doctor is such that his earning capacity is lost for the rest of his life. There is no material to show that the injured claimant will be idle for the rest of his life and consequently, there will be a total loss of income. Therefore, the question of applying multiplier method in this case does not arise as per the decision of the Division Bench of this Court in United India Insurance Co. Ltd., - vs. - Veluchamy and another reported in 2005 ACJ 1483. The multiplier method adopted by the Tribunal, therefore, clearly is an error. Accordingly, the compensation granted based on multiplier method cannot be justified.

10.5. In view of the decision rendered in the case of Sankara Subbu vs. Selvi and other, [C.M.A.(MD)No.538 of 2009] as above, for 25% disability a sum of Rs.50,000/- (Rs.2,000/- x 25 = Rs.50,000/-) is granted as compensation.

10.6. Counsel for the claimant has stated that for pain and suffering the Tribunal granted only a meagre sum of Rs.20,000/-.

In the petition it is stated that the injured claimant has suffered the following injuries:

> "Multiple grievous injuries all over the bodies.
> 2. 3 and 4 Ribs fracture Fracture"

10.7. Considering the nature of the injury suffered, it is just and reasonable to grant a sum of Rs.40,000/- as compensation towards pain and suffering. Learned counsel for the claimant has also stated that the compensation granted in a sum of Rs.3,000/- towards damage to clothing and articles is very low and it may be enhanced. Accordingly, the sum of Rs.3,000/- is enhanced to Rs.10,000/- as compensation towards damage to clothing and articles.

10.8. The compensation granted under the other heads are just and reasonable. Accordingly, the compensation granted by the Tribunal is modified as follows:-

Sl. No.	Head	Amount granted by the Tribunal	Amount granted by this Court
1	For 25% permanent Partial Disability (Rs.2,000 x 12 x 15 x 25/100 = Rs.90,000/-)	Rs.90,000/-	Rs. 50,000/-
2	For Transport to Hospital expenses	Rs. 10,000/-	Rs. 10,000/-
3	For extra nourishment expenses	Rs. 20,000/-	Rs. 20,000/-
4	Damage to Clothing and articles	Rs. 3,000/-	Rs. 10,000/-
5	For pain and suffering	Rs. 20,000/-	Rs. 40,000/-
6	For mental agony	Rs. 10,000/-	Rs. 10,000/-
	Total	Rs.1,53,000/-	Rs.1,40,000/-

10.9. There is no objection with regard to interest granted at 7.5% per annum and the same is confirmed.

10.10. In view of the above, the award of the Tribunal is modified as above.

11.1. C.M.A.No.2995 of 2013:- In this case also based on 2010(1) TN MAC 548, the Tribunal adopted multiplier method in granting compensation for the injury suffered by the claimant. The injured Venkattiyan was aged 34 years at the time of accident. It is stated that the injured was earning Rs.4,000/-

per month by doing labour work. After deducting 1/3 towards personal expenses the Tribunal fixed the income of the injured at Rs.2,670/- per month. As per disability certificate Ex.P-58 the Tribunal fixed the disability at 25% permanent partial disability. Based on the age of the injured, the Tribunal adopted multiplier "17". Accordingly, by adopting multiplier method the Tribunal fixed the compensation in a sum of Rs.1,36,170/- towards 25% disability. The Tribunal also granted compensation on the following heads with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	For 25% permanent Partial Disability (Rs.2,670 x 12 x 17 x 25/100 = Rs.1,36,170/-)	Rs.1,36,170/-
2	For Transport to Hospital expenses	Rs. 10,000/-
3	For extra nourishment expenses	Rs. 10,000/-
4	Damage to Clothing and articles	Rs. 3,000/-
5	For pain and suffering	Rs. 20,000/-
6	For mental agony	Rs. 10,000/-
	Total	Rs.1,89,170/-

11.2. It is recorded in the award of the Tribunal, that based on 2009(2)TN MAC 641, Tribunal can award more amount than claimed.

11.3. In appeal, it is pointed out that the Tribunal is not correct in applying multiplier method for 25% disability. Further, the amount of Rs.20,000/- granted towards pain and suffering and another sum of Rs.10,000/- towards mental agony are not proper and not reasonable. Therefore, the compensation has to be reduced.

11.4. There is no finding by the Tribunal that by the nature of injury suffered by the injured claimant his earning capacity and employment is totally affected. There is no finding that the disablement in this case assessed by the doctor is such that his earning capacity is lost for the rest of his life. There is no material to show that the injured claimant will be idle for the rest of his life and consequently, there will be a total loss of income. Therefore, the question of applying multiplier method in this case does not arise as per the decision of the Division Bench of this Court in United India Insurance Co. Ltd., - vs. - Veluchamy and another reported in 2005 ACJ 1483. The multiplier method adopted by the Tribunal, therefore, clearly is an error. Accordingly, the compensation granted based on multiplier method cannot be justified.

11.5. In view of the decision rendered in the case of Sankara Subbu vs. Selvi and other, [C.M.A.(MD)No.538 of 2009] as above, for 25% disability a sum of Rs.50,000/- (Rs.2,000/- x 25 = Rs.50,000/-) is granted as compensation.

11.6. Learned counsel for the claimant has stated that for pain and suffering the Tribunal granted only a meagre sum of Rs.20,000/-. In the petition it is stated that the injured petitioner has suffered the following injuries:

> "Multiple grievous injuries all over the bodies."

11.7. In his evidence the claimant has stated that he lost one teeth. He has taken treatment for one month in Koyambedu Padma Clinic. Thereafter he has taken treatment in Government Hospital at Chengalpattu for another one month. His movement of jaw was restricted. Considering the nature of the injury suffered and the treatment taken it is just and reasonable to grant a sum of Rs.40,000/- as compensation towards pain and suffering. Learned counsel for the claimant has also stated that the claimant may be awarded a sum of Rs.20,000/- towards loss of amenities. Considering the nature of injury suffered and to meet the ends of justice a sum of Rs.25,000/- is granted towards loss of amenities.

11.8. Learned counsel for the claimant has also stated that the compensation granted in a sum of Rs.3,000/- towards damage to clothing and articles is very low and it may be enhanced. He has stated that besides clothing, etc., his watch was also damaged due to accident. In view of the above, the sum of Rs.3,000/- is enhanced to Rs.10,000/- as compensation towards damage to clothing and articles.

11.9. The compensation granted under the other heads are just and reasonable. Accordingly, the compensation granted by the Tribunal is modified as follows:-

Sl. No.	Head	Amount granted by the Tribunal	Amount granted by this Court
1	For 25% permanent Partial Disability (Rs.2,670 x 12 x 17 x 25/100 = Rs.1,36,170/-)	Rs.1,36,170/-	Rs. 50,000/-

Sl. No.	Head	Amount granted by the Tribunal	Amount granted by this Court
2	For Transport to Hospital expenses	Rs. 10,000/-	Rs. 10,000/-
3	For extra nourishment expenses	Rs. 10,000/-	Rs. 10,000/-
4	Damage to Clothing and articles	Rs. 3,000/-	Rs. 10,000/-
5	For pain and suffering	Rs. 20,000/-	Rs. 40,000/-
6	For loss of amenities	---	Rs. 25,000/-
7	For mental agony	Rs. 10,000/-	Rs. 10,000/-
	Total	Rs.1,89,170/-	Rs.1,55,000/-

11.10. There is no objection with regard to interest granted at 7.5% per annum and the same is confirmed.

11.12. In view of the above, the award of the Tribunal is modified as above.

12.1. C.M.A.No.2996 of 2013:- It is stated that the age of the deceased Jeeva was 7 years and he was a student studied in 2nd standard. As per second schedule, the Tribunal has taken notional income at Rs.15,000/- per annum. Based on the age of the 2nd petitioner G.Mani, the father of the deceased, the Tribunal adopted "13" multiplier and granted a sum of Rs.1,95,000/- (Rs.15,000/- x 13 = Rs.1,95,000/-) towards loss of pecuniary benefits. Further, following decision reported in 2010 (1) TN MAC 56, the Tribunal granted a sum of Rs.75,000/- towards loss of future prospects and another sum of Rs.75,000/- towards loss of non-pecuniary damages. In addition, the Tribunal granted compensation under conventional heads. In all the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of pecuniary benefits to the dependents of the deceased (Rs.15,000 x 13 = Rs.1,95,000/-)	Rs.1,95,000/-
2	Funeral expenses	Rs. 10,000/-
4	Damage to Clothing and articles	Rs. 500/-

Sl. No.	Head	Amount granted by the Tribunal
5	Loss of estate	Rs. 10,000/-
6	For loss of future prospects	Rs. 75,000/-
7	For loss of non pecuniary damages	Rs. 75,000/-
	Total	Rs.3,65,500/-

12.2. It is recorded in the award of the Tribunal, that based on 2009(2)TN MAC 641, Tribunal can award more amount than claimed.

12.3. In appeal, it is pointed out that awarding a sum of Rs.75,000/- towards future prospects for seven year old boy is not proper. It is also pointed out that awarding a sum of Rs.75,000/- towards non pecuniary loss is also not proper and reasonable. Therefore, the compensation has to be reduced.

12.4. We are not inclined to interfere with the award of the Tribunal for the following reasons:-

(1) As per the decision reported in Santosh Devi - vs. - National Insurance Company Ltd. and others reported in (212)6 SCC 421 in para 14, the future prospects can be pegged at 30%.

(2) As per the Apex Court judgment in Manju Devi and another - vs. - Musafir Paswan and another reported in 2005 ACJ 99 = 2005(1) TAC 609(SC), the sum of Rs.2,25,000/- as compensation for the death of the 13 year son, a student is justified. Further, in the Apex Court's decision, the accident happened in the year 1998. In this case, the accident happened on 22.2.2004. The deceased son is a 7 year old 2nd standard student.

(3) The parents losing their child at a tender age is a permanent scar in their life and the grief will linger till their life time. Thus, in a claim for compensation in the case of death, the claimants are granted compensation under conventional heads, like loss of love and affection, funeral expenses and miscellaneous expenses and loss of estate in the case of death of an earning member. The entitlement of the claimants/parents for compensation on conventional heads cannot be disputed.

(4) The claimants in this case are father and mother claiming compensation on the death of their young son. Having brought

up their child and given him good education in a matriculation school, they will expect him to do well in life and their expectation of the bright prospects of their son has been shattered due to his untimely death and hence they have to be compensated for loss of love and affection consequent to the death of their child. This will be in addition to compensation on other heads.

(5) Hence, the two claimants/parents will be entitled to Rs.50,000/- each for loss of love and affection on the death of their son.

12.5. There is no objection with regard to interest granted at 7.5% per annum and the same is confirmed.

12.6. In view of the above, the total compensation granted in a sum of Rs.3,65,500/- to 7 years old student is just and reasonable and the same is confirmed.

13.1. C.M.A.No.2997 of 2013:- It is stated that the age of the deceased Nagaraj was 42 years and he was a contractor by profession and was earning a sum of Rs.10,000/- per month. Accordingly, the Tribunal fixed the monthly income of the deceased Nagaraj at Rs.10,000/-. After deducting 1/3 towards personal expenses of the deceased, the Tribunal fixed the loss of income to the family of the deceased at Rs.6,666/- per month. Considering the age of the deceased Nagaraj at 42 years, the Tribunal adopted multiplier "15" and calculated the loss of pecuniary benefits to the dependents of the deceased Nagaraj at Rs.11,99,880/- (Rs.6,666 x 12 x 15 = Rs.11,99,880/-). In addition, the Tribunal granted compensation under conventional heads. In all the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of pecuniary benefits to the dependents of the deceased (Rs.6,666 x 12 x 15)	Rs.11,99,880/-
2	Funeral expenses	Rs. 10,000/-
3	Transport to Hospital expenses	Rs. 5,000/-
4	Damage to Clothing and articles	Rs. 10,000/-
5	Loss of estate	Rs. 10,000/-
6	Loss of Consortium to the wife of the deceased, the 1st petitioner/1st respondent	Rs. 20,000/-

Sl. No.	Head	Amount granted by the Tribunal
7	Loss of Love and affection to 2 children, respondents 2 & 3/petitioners 2 & 3 (Rs.10,000 x 2 = Rs.20,000/-)	Rs. 20,000/-
	Total	Rs.12,74,880/-

13.2. It is recorded in the award of the Tribunal, that based on 2009(2)TN MAC 641, Tribunal can award more amount than claimed.

13.3. In appeal, it is pointed out that the income of the deceased Nagaraj, a contractor by profession, was taken as Rs.10,000/- per month which is on the higher side. The Tribunal erred in applying multiplier "15" instead of "14". As such, the compensation granted by the Tribunal has to be reduced.

13.4. We are not inclined to interfere with the award of the Tribunal for the following reasons:

(1) Considering the age of the deceased at 42 years and the decision of the Apex Court in the case of Santosh Devi - vs. - National Insurance Company Ltd. and others reported in (212)6 SCC 421 in para 14, the future prospects can be pegged at 30%.

(2) The Tribunal granted a sum of Rs.20,000/- only towards loss of consortium to the wife of the deceased, which is very low.

(3) Meagre amount of Rs.10,000/- each has been granted towards loss of love and affection to the two children.

(4) The sum of Rs.10,000/- granted towards funeral expenses is also very low.

13.5. There is no objection with regard to interest granted at 7.5% per annum and the same is confirmed.

13.6. In view of the above, the total compensation granted in a sum of Rs.12,74,880/- is just and reasonable and the same is confirmed.

14.1. C.M.A.No.2998 of 2013:- It is stated that the injured claimant Kathirvelu was aged 35 years and was earning Rs.5,000/- by doing finance business at the time of accident. In his evidence, P.W.7, the doctor who examined the injured claimant has stated as follows:-

"20.7.2010ல் கதிர்வேல் மனுதாரர் 386/04 வயதானவரை பரிசோதித்தேன். 2.2.2004ல் சாலை விபத்தில் இடது பக்க கழுத்து தண்டுவட பகுதியில் நரம்பு காயங்கள் ஏற்பட்டு அவருடைய இடது கை முழுவதும் இயக்க இயலாமல் போய்விட்டது. தற்போது அவரை பரிசோதித்ததில் அவரால் இடது கையை தூக்க முடியவில்லை. சிறிய பொருட்களை கூட எடுக்க முடியவில்லை. அவருடைய கழுத்து தசைகள் இறுக்கமாக உள்ளன. இந்த நோய்களுக்கு 50% பகுதி நிரந்தர இயலாமை வழங்கியுள்ளேன். இயலாமை சான்றிதழ் ம.சா.ஆ.52."

14.2. In his evidence, P.W.8, the doctor who examined the injured claimant has stated as follows:-

"மனுதாரர் கதிர்வேலுக்கு மேல்தாடை பற்கள் இழப்ப, மற்றும் இடது முகத்தசைகளில் ஏற்பட்ட காயத்தின் விளைவாக தசைகள் மற்றும் மூட்டு இறுக்கம் ஏற்பட்டுள்ளது. இதன் விளைவாக மனுதாரரின் பற்களின் சீரமைப்பில் மாற்றம், உணவ, உண்பதில் இயலாமை மற்றும் முகத்தோற்றத்தில் மாற்றம் ஏற்பட்டுள்ளது. மேற்கூறிய இயலாமைகளை நிரந்தரமாகவும் பகுதியாகவும் கணித்து 45 சதவிகிதம் ஊனம் என்று கணித்துள்ளேன். அது ம.சா.ஆ.54. (அவர் செயற்கை பற்கள் பொருத்தியுள்ளதால் இந்த ஊனம் 40 சதவிகிதமாக இருக்கும்). பற்களின் இழப்பிற்காக 25 சதவிகிதமும், தசை மற்றும் மூட்டின் இறுக்கத்தினால் ஏற்பட்டட பின் விளைவுகளுக்கு 20 சதவிகிதமும் கொடுக்கப்பட்டுள்ளது. உடற்கூறு பற்றிய படங்களும், விளக்கவ,ரைகளும் ம.சா.அ.55. இயலாமை சான்றிதழ் ம.சா.56."

14.3. Considering the evidence of doctors P.Ws.7 and 8, and the disability certificates Exs.P-52 and P-54, the Tribunal fixed the disability of the injured at 95%. The Tribunal fixed the income of the injured at Rs.5,000/ per month. After deducting 1/3 towards personal expenses the Tribunal calculated the loss of income at Rs.3,332/- per month. Adopting 17 multiplier, the Tribunal fixed the loss of earing at Rs.6,45,742/- (Rs.3,332 x 12 x 17 x 95/100 = Rs.6,45,742/-). Accordingly, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of income (Rs.3,332 x 12 x 17 x 95/100 = Rs.6,45,742/-)	Rs. 6,45,742/-

Sl. No.	Head	Amount granted by the Tribunal
2	Transport to Hospital expenses	Rs. 50,000/-
3	For extra nourishment expenses	Rs. 20,000/-
4	For Medical expenses as per Ex.P-39 to P-50	Rs. 2,00,511/-
5	For Damage of Clothing and articles	Rs. 10,000/-
6	For attender charges	Rs. 10,000/-
7	Based on 2009(1) TN MAC 89) - for pain and suffering	Rs. 75,000/-
8	For mental agony	Rs. 10,000/-
	Total	Rs.10,21,253/-

14.4. It is recorded in the award of the Tribunal, that based on 2009(2)TN MAC 641, Tribunal can award more amount than claimed.

14.5. In appeal, it is pointed out that the Tribunal wrongly applied multiplier method for the disability assessed at 95%. The compensation awarded towards pain and suffering, mental agony and transport expenses are not proper and reasonable. As such, the compensation granted by the Tribunal has to be reduced.

14.6. We are not inclined to interfere with the award of the Tribunal for the following reasons:-

(1) Injured claimant undergone 2 surgery. After accident he is unable to move or lift his left hand. It is stated that he could not do any work as before.

(2) Injured claimant lost 7 teeth. Now artificial teeth have been fixed. Due to loss of teeth, there is dis figuration. However, no amount was granted towards loss of amenities.

(3) In Rajan - vs. - Soly Sebastian and others reported in 2015 (9) JT 78 : 2015(8) Scale 290 the Apex Court held that "Victim though suffered 60% bodily disability, but suffered 100% permanent disability with regard to his earning capacity". In view of the said decision, the multiplier adopted by the Tribunal is just and reasonable.

(4) He has undergone two surgery. He was in hospital for 25 days in Padma Clinic, Kilpauk, Chennai as inpatient.

(5) The amount of Rs.10,.000/- granted towards attender charges is very low.

14.7. There is no objection with regard to interest granted at 7.5% per annum and the same is confirmed.

14.8. In view of the above, the total compensation granted in a sum of Rs.10,21,253/- is just and reasonable and the same is confirmed.

15.1. C.M.A.No.2992 of 2013:- In the result, the award of the Tribunal is confirmed. The Civil Miscellaneous Appeal is dismissed. The appellant is directed to deposit the award amount within a period of two months. There will be no order as to costs in this appeal. Consequently, connected miscellaneous petitions are closed.

15.2. After filing appeal, it is stated that the first respondent in this appeal, namely, Rajeshwari died. As per order dated 5.2.2016, made in M.P.No.1 of 2015, the share of the deceased Rajeshwari is reassigned to the minor respondents 2 to 4/minor petitioners 2 to 4 equally in addition to their share. The 5th respondent/5th petitioner is permitted to withdraw her share amount as ordered by the Tribunal. The share of the minors is directed to be deposited in any one of the nationalised bank till the minors attain majority.

16. C.M.A.No.2993 of 2013:- In the result, the Civil Miscellaneous Appeal is partly allowed as follows:-

(1) The award granted by the Tribunal is reduced to Rs.1,50,000/- from Rs.1,86,360/-.

(2) The interest granted by the Tribunal at 7.5% per annum is confirmed.

(3) The appellant is directed to deposit the award amount as ordered by this court within a period of two months.

(4) The respondent is permitted to withdraw the award amount as ordered by this court.

(5) There will be no order as to costs in this appeal.

(6) Consequently, connected miscellaneous petitions are closed.

17. C.M.A.No.2994 of 2013:- In the result, the Civil Miscellaneous Appeal is partly allowed as follows:-

(1) The award granted by the Tribunal is reduced to Rs.1,40,000/- from Rs.1,53,000/-.

(2) The interest granted by the Tribunal at 7.5% per annum is confirmed.

(3) The appellant is directed to deposit the award amount as ordered by this court within a period of two months.

(4) It is stated that the sole respondent G.Mani died. As per order dated 5.2.2016 in M.P.Nos.1 to 3 of 2015 respondents 2 to 4 were added as his legal representatives. Hence, respondents 2 to 4 are permitted to withdraw the award amount as ordered by this court equally.

(5) There will be no order as to costs in this appeal.

(6) Consequently, connected miscellaneous petitions are closed.

18. C.M.A.No.2995 of 2013:- In the result, the Civil Miscellaneous Appeal is partly allowed as follows:-

(1) The award granted by the Tribunal is reduced to Rs.1,55,000/- from Rs.1,89,170/-.

(2) The interest granted by the Tribunal at 7.5% per annum is confirmed.

(3) The appellant is directed to deposit the award amount as ordered by this court within a period of two months.

(4) Respondent is permitted to withdraw the award amount as ordered by this court.

(5) There will be no order as to costs in this appeal.
(6) Consequently, connected miscellaneous petitions are closed.

19.1. C.M.A.No.2996 of 2013:- In the result, the award of the Tribunal is confirmed. The Civil Miscellaneous Appeal is dismissed. The appellant is directed to deposit the award amount within a period of two months. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.2. After filing appeal, it is stated that the second respondent in this appeal, namely, G.Mani died and his legal heir is already on record as the 1st respondent. A memo to that effect has been filed on 6.8.2015. Hence, the first respondent in this appeal is permitted to withdraw entire award amount.

20.1. C.M.A.No.2997 of 2013:- In the result, the award of the Tribunal is confirmed. The Civil Miscellaneous Appeal is dismissed. The appellant is directed to deposit the award amount within a period of two months. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

20.2. The 1st respondent/1st petitioner is permitted to withdraw her share amount as ordered by the Tribunal. The share of the minors is directed to be deposited in any one of the nationalised bank till the minors attain majority.

21. C.M.A.No.2998 of 2013:- In the result, the award of the Tribunal is confirmed. The Civil Miscellaneous Appeal is dismissed. The appellant is directed to deposit the award amount within a period of two months. The respondent/petitioner is permitted to withdraw the award amount as ordered by the Tribunal. There will be no order as to costs in this appeal. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Nvsri/ts

To

The Additional Subordinate Judge,
(Motor Accidents Claims Tribunal)
Chengalpattu.

COPY TO

The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.V.Ramesh, Advocate, S.R.No.7623
+7cc's to Mr.S.Chakravarthi, Advocate, S.R.Nos.8041 to 8047

C.M.A.Nos.2992 to 2998 of 2013

KSJ(CO)
CA(14/03/2016)