IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.Nos.1479 & 1480 of 2015
and
Cross Objection Nos.64 and 65 of 2016
and
M.P.Nos.1 + 1 + 2 of 2015

C.M.A.No.1479 of 2015

Cholamandalam MS General
Insurance Co. Ltd
Chennai ... Appellant/2nd Respondent

Vs.

1.Rajasubhashini W/o.Kannan ... 1st Respondent/Claimant

2.Mahendran ... 2nd Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Common Judgement and Decrees in MCOP Nos.147 of 2012 dated 30.04.2014 on the file of Motor Accident Claims Tribunal, [Additional Sub Court], Vriddhachalam.

C.M.A.No.1480 of 2015

Cholamandalam MS General
Insurance Co. Ltd
Chennai ... Appellant/2nd Respondent

Vs.

1.Rajasubhashini W/o.Kannan
2.Minor Dharanish
3.Singaram ... 1 to 3 Respondents/Claimants
(Minor represented by his guardian and mother, 1st respondent Rajasubhashini)

4.Mahendran ... 4th Respondent/2nd Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Common Judgement and Decrees in MCOP Nos.148 of 2012 dated 30.04.2014 on the file of Motor Accident Claims Tribunal, [Additional Sub Court], Vriddhachalam.

Cross Objection Nos.64 and 65 of 2016

1.Rajasubhashini W/o.Kannan ... Cross Objector 1 in Cross Obj. Nos.64 & 65/2016

2.Minor Dharanish
3.Singaram ... Cross Objectors 2 and 3 in Cross Obj. No.65/2016

Vs

1. Cholamandalam MS General Insurance Co. Ltd
Chennai

2.Mahendran ... Respondents in both the Cross Objections

Cross Appeal filed under Order 41 Rule 22 of CPC against the Common Judgement and Decrees in MCOP Nos.147 & 148 of 2012 dated 30.04.2014 on the file of Motor Accident Claims Tribunal, [Additional Sub Court], Vriddhachalam.

For Appellant in both CMAs	:	Ms.C.Harini for Mr.N.Vijayaraghavan
For Respondents in both CMAs & Cross Objector in both Cross Objections	:	Mr.F.Terry Chellaraja for Mrs.M.Malar

COMMON JUDGMENT
[Made by S.MANIKUMAR, J.]

In the accident, which occurred on 04.06.2012, between a two wheeler bearing Registration No.TN-32 A-1064 and a Tata Indica car bearing Registration No.TN-32 AZ-5967, Kannan, motorcyclist, died. Wife Rajasubhashini, pillion rider, sustained grievous injuries. In this regard, a case in Crime No.130/2012 has been registered on the file of Karuveppilankurichy Police Station against the driver of Tata Indica car bearing Registration No.TN-32 AZ-5967, insured with Cholamandalam MS General Insurance Co. Ltd/appellant herein.

2.Contending intere alia that due to the grievous injuries in the head and other parts of the body, there was disfigurement and disablement, Rajasubhashini/injured, has filed MCOP No.147 of 2012, for a compensation of Rs.35,00,000/- on the file of Motor Accident Claims Tribunal (Additional Sub Court), Vriddhachalam. Further contending that, due to the sudden demise of Kannan/motorcyclist, wife Rajasubhashini, Minor Dharanish and father aged about 70 years, joined together and filed MCOP No.148/2012 on the file of the same Tribunal.

3. Claiming that on the date of accident, he was aged 39 years and was a Veterinary Inspector Grade II, Veterinary Department, Tamil Nadu Government, earned Rs.30,000/- per month, they claimed compensation of Rs.45,00,000/- under various heads. As both the claim petitions arose out of the same accident, which occurred on 04.06.2012, evidence being common, they were tried together.

4. Before the Tribunal, as PW1, Rajasubhashini/claimant in MCOP No.147/2012, adduced evidence. PW2 is the doctor, who clinically examined her and issued Ex.P17-Disability certificate. Claimants/respondents have marked 19 documents. Ex.P1 - Xerox copy of FIR, Ex.P2 - Motor Vehicle Inspection Report, Ex.P3 - wound certificate of the petitioner in MCOP No.147/2012, Ex.P4 - Discharge summary of petitioner in MCOP No.147/2012, Ex.P5-Registration certificate of Tata India, Ex.P6 - insurance policy of Tata Indica, Ex.P7 - Medical Bills series of petitioner in MCOP No.147/2012, Ex.P8 - Car rent receipts of petitioner in MCOP No.147/2012, Ex.P9-Salary certificate of injured, Ex.P10-Copy of the charge sheet, Ex.P11-Wound certificate of Kannan, Ex.P12-Postmortem report of Kannan, Ex.P13-Identify card of Kannan, Ex.P4-Regularisation order of Kannan, Ex.P15-Salary certificate of Kannan, Ex.P16-Legal heir certificate of Kannan, Ex.P17 - Disability certificate of the petitioner in MCOP No.147/2012, Ex.P18 - Xray of petitioner in MCOP No.147/2012 and Ex.P19 - Salary slip of Kannan. No oral or documentary evidence was adduced on behalf of the appellant herein/Cholamandalam MS General Insurance Co. Ltd.

5. On evaluation of pleadings and evidence, the Tribunal, held that the driver of the Tata Indica car bearing Registration No.TN-32 AZ-5967, insured with Cholamandalam MS General Insurance Co. Ltd, was negligent in causing the accident.

6. Having regard to the oral and documentary evidence adduced by Rajasubhashini/claimant in MCOP No.147/2012 that she sustained grievous injuries, took treatment in Government Hospitals, Vriddhachalam and Pondicherry and then, at Appollo Hospital, Chennai, as inpatient and outpatient, disablement suffered, her age at the time of accident, avocation pleaded and correlating the same, with loss of earning, the Tribunal decided to apply multiplier method, for the purpose of computing loss of future earning. Tribunal fixed the monthly income of the injured as Rs.4,500/-, as she was aged 30 years,

added 50% under the head future prospects, and applied '16' multiplier. The Tribunal awarded Rs.12,96,000/- as loss of future earning. In addition to the above, the Tribunal awarded Rs.25,000/- under the head pain and suffering; Rs.9,500/- for nutrition; Rs.4,41,141/- under the head medical expenses, duly supported by Ex.P7-Medical Bills (series); Rs.5,000/- for attendant charges and Rs.10,000/- for transportation. Altogether, the Tribunal has awarded Rs.17,86,891/- as compensation with interest at the rate of 7.5% per annum from the date of claim, till deposit and costs, to the claimant/Rajasubhashini.

7. Insofar as claim in MCOP No.148/2012, made by wife Rajasubhashini, minor son and father aged about 70 years, is concerned, legal representatives have adduced evidence contending that, at the time of accident, Kannan was a Veterinary Inspector Grade II in Veterinary Department, Government of Tamil Nadu. To support the same, legal representatives have marked Ex.P13 - identity card, Ex.P14 - Regularisation order, Ex.P15 - Salary Certificate and Ex.P19 - Salary slip. Accident has occurred on 04.06.2012. Based on Ex.P13 and P12 - Postmortem report, Tribunal determined his age as 39 Years. His last drawn salary as per Ex.P19 was Rs.13,370/-. As the deceased was less than 50 years, taking note of the decision of the Hon'ble Supreme Court in Sarla Verma's case, the Tribunal has added 50% of the income under the head future prospects, and arrived at a sum of Rs.20,595/-. As dependants were 3 in number, the Tribunal deducted 1/3rd towards the personal and living expenses of the deceased, applied '15' multiplier for the age group of persons between 36 to 40 years and computed the loss of contribution to the family as Rs.24,71,400/-.

8. As Rajasubhashini, wife was a widow aged 35 years, the Tribunal has awarded Rs.1,00,000/- for loss of consortium. Rs.50,000/- has been awarded under the head loss of love and affection (Rs.25,000/- each to the minor and father). The Tribunal has added Rs.10,000/- for funeral expenses and Rs.10,000/- for transportation.

9. Being aggrieved by the quantum of compensation in MCOP No.147/2012, awarded to Rajasubhashini/injured, Cholamandalam MS General Insurance Co. Ltd, Chennai has filed C.M.A.No.1479/2015. As against the quantum of compensation awarded in MCOP No.148/2012 to the legal representatives of the deceased Kannan, CMA No.1480/2015 has been filed.

10. Being dissatisfied with the quantum of compensation, claimant/injured in MCOP No.147/2012 has filed Cross Objection No.64/2016 and Legal representatives of the deceased Kannan, have filed Cross Objection No.65/2016. As appeals and Cross Objections, arise out of the common judgment and decrees in MCOP Nos.147 and 148 of 2012, they are taken up together and disposed of by this common judgment.

11. Ms.C.Harini, learned counsel for the appellant in CMA No.1479/2015 submitted that the Tribunal has erred in determining 100% disablement for assessing loss of future earning capacity. According to her, quantum of compensation is on the higher side. Perusal of the award shows that Rajasubhashini is stated to have sustained injuries in the head, and other parts of the body. There was also a fracture in her hip. She claimed to have worked as a Supervisor in Sri Venkateswara Modern Rice Mill in Thomur, Vriddhachalam. But there was no document, supporting the same. Ex.P3 - wound certificate and Ex.P4 - Discharge summary marked before the Tribunal, would support her contention that she sustained grievous injuries. Ex.P7 is the Medical Bill series. Prior to assessment, PW2 - doctor has taken Ex.P18-X-ray and on clinical examination, found that she suffered disablement. Assessing the oral and documentary evidence, we are of the view that 100% loss of future earning capacity assessed by the Tribunal, requires reduction.

12. While assessing the loss of future income, a Hon'ble Division Bench of this Court in United India Insurance company Limted vs Velusamy reported in 2005 ACJ 1483 has held in para 10 as follows:

> "10.In estimating the financial or pecuniary loss, the court must first form an opinion from the evidence and probabilities in the case, of the nature and extent of the loss. While estimating the loss of earnings the court must first decide what the claimant would have earned if the accidenthad not happened, allowing for any future increase or decrease in the rate of earnings. It is also necessary for thecourt to decide howlong the loss will continue, whether there is incapacityfor life or for a shorter period. The Court should also make an estimate of the amount, if any, which the claimant could still earn in future, notwithstanding disabilities sustained by him in the accident".
>
> 6. The Division Bench in para 11(b) has further held that
>
> 11(b) It depends upon various factors such as nature and extent of disablement, avocation of the injured and whether it would affect his employment or earning power etc., and if so, to what extent?
>
> (1) If there is categorical evidence that because of injury and consequential disability, the injured lost his employment or avocation completely and has to be idle till the rest of his life, in that event loss of income or earning may be ascertained by applying "multiplier method" as provided under Second Schedule to the Motor Vehicles Act, 1988.

(2) Even if so, there is no need to adopt the same period as that of fatal cases as provided under the schedule. If there is no amputation and if there is evidence to show that there is likelihood of reduction or improvement in future years, lesser period may be adopted for ascertainment of loss of income.

13. Insofar as determination of monthly income of a house wife, at the time of accident, this Court deems it fit to consider a decision of the Hon'ble Apex Court in Arun Kumar Agrawal & Anr. Vs. National Insurance Co. Ltd. & Ors., reported in 2010(9) SCC 218, wherein, after considering the services, which the husband and family stand to lose, due to death of a house wife, as per Kemp on Negligence, at paragraph Nos.23 to 27, held as follows:

"23. In India the Courts have recognised that the contribution made by the wife to the house is invaluable and cannot be computed in terms of money. The gratuitous services rendered by wife with true love and affection to the children and her husband and managing the household affairs cannot be equated with the services rendered by others. A wife/mother does not work by the clock. She is in the constant attendance of the family throughout the day and night unless she is employed and is required to attend the employer's work for particular hours. She takes care of all the requirements of husband and children including cooking of food, washing of clothes, etc. She teaches small children and provides invaluable guidance to them for their future life. A housekeeper or maidservant can do the household work, such as cooking food, washing clothes and utensils, keeping the house clean 2 etc., but she can never be a substitute for a wife/mother who renders selfless service to her husband and children.

24. It is not possible to quantify any amount in lieu of the services rendered by the wife/mother to the family i.e. husband and children. However, for the purpose of award of compensation to the dependents, some pecuniary estimate has to be made of the services of housewife/mother. In that context, the term `services' is required to be given a broad meaning and must be construed by taking into account the loss of personal care and attention given by the deceased to her children as a mother and to her husband as a wife. They are entitled to adequate compensation in lieu of the loss of gratuitous services rendered by the deceased. The amount payable to the dependants cannot be diminished on the ground that some close relation

like a grandmother may volunteer to render some of the services to the family which the deceased was giving earlier.

25. In Lata Wadhwa v. State of Bihar (supra), this Court considered the various issues raised in the writ petitions filed by the petitioners including the one relating to payment of compensation to the victims of fire accident which occurred on 3.3.1989 resulting in the death of 60 persons and injuries to 113. By an interim order dated 15.12.1993, this Court requested former 2 Chief Justice of India, Shri Justice Y.V. Chandrachud to look into various issues including the amount of compensation payable to the victims. Although, the petitioners filed objection to the report submitted by Shri Justice Y.V. Chandrachud, the Court overruled the same and accepted the report. On the issue of payment of compensation to housewife, the Court observed: So far as the deceased housewives are concerned, in the absence of any data and as the housewives were not earning any income, attempt has been made to determine the compensation on the basis of services rendered by them to the house. On the basis of the age group of the housewives, appropriate multiplier has been applied, but the estimation of the value of services rendered to the house by the housewives, which has been arrived at Rs.12,000 per annum in cases of some and Rs.10,000 for others, appears to us to be grossly low. It is true that the claimants, who ought to have given data for determination of compensation, did not assist in any manner by providing the data for estimating the value of services rendered by such housewives. But even in the absence of such data and taking into consideration the multifarious services rendered by the housewives for managing the entire family, even on a modest estimation, should be Rs.3000 per month and Rs.36,000 per annum. This would apply to all those housewives between the age group of 34 to 59 and as such who were active in life. The compensation awarded, therefore, should be recalculated, taking the value of services rendered per annum to be Rs.36,000 and thereafter, applying the multiplier, as has been applied already, and so far as the conventional amount is concerned, the same should be Rs.50,000 instead of Rs.25,000 given under the Report. So far as the elderly ladies are concerned, in the age group of 62 to 72, the value of services rendered has been taken at Rs.10,000 per annum and the multiplier applied is eight. Though, the multiplier applied is correct, but the values of

services rendered at Rs.10,000 per annum, cannot be held to be just and, we, therefore, enhance the 2 same to Rs.20,000 per annum. In their case, therefore, the total amount of compensation should be redetermined, taking the value of services rendered at Rs.20,000 per annum and then after applying the multiplier, as already applied and thereafter, adding Rs.50,000 towards the conventional figure. (emphasis supplied)

26. The judgment of Lata Wadhwa's case was referred to with approval in M.S. Grewal and another v. Deep Chand Sood and others (2001) 8 SCC 151 for confirming the award of compensation of Rs.5 lacs in a case involving death of school children by drowning due to negligence of teachers of the school. In Municipal Corporation of Greater Bombay v. Laxman Iyer and another (2003) 8 SCC 731, a two-Judge Bench while deciding the issue of award of compensation under Sections 110-A and 110- B of the Motor Vehicles Act, 1939, referred to the judgments in Lata Wadhwa's case and M.S. Grewal's case.

27. In A.Rajam v. M.Manikya Reddy, 1989 ACJ 542 (Andhra Pradesh HC), M. Jagannadha Rao, J. (as he then was) advocated giving of a wider meaning to the word `services' in cases relating to award of compensation to the dependants of a deceased wife/mother. Some of the observations made in that judgment are extracted below: The loss to the husband and children consequent upon the death of the housewife or mother has to be computed by estimating the loss of 'services' to the family, if there was reasonable prospect of such services being rendered freely in 2 the future, but for the death. It must be remembered that any substitute to be so employed is not likely to be as economical as the housewife. Apart from the value of obtaining substituted services, the expense of giving accommodation or food to the substitute must also be computed. From this total must be deducted the expense the family would have otherwise been spending for the deceased housewife. While estimating the `services' of the housewife, a narrow meaning should not be given to the meaning of the word `services' but it should be construed broadly and one has to take into account the loss of `personal care and attention' by the deceased to her children, as a mother and to her husband, as a wife. The award is not diminished merely because some close relation like a grandmother is prepared to render voluntary services."

At paragraph No.32, the Apex Court further held that,

> "the gratuitous services rendered by wife/mother to the husband and children cannot be equated with the services of an employee and no evidence or data can possibly be produced for estimating the value of such services. It is virtually impossible to measure in terms of money the loss of personal care and attention suffered by the husband and children on the demise of the 2 housewife. In its wisdom, the legislature had, as early as in 1994, fixed the notional income of a non-earning person at Rs.15,000/- per annum and in case of a spouse, 1/3rd income of the earning/surviving spouse for the purpose of computing the compensation. Though, Section 163A does not, in terms apply to the cases in which claim for compensation is filed under Section 166 of the Act, in the absence of any other definite criteria for determination of compensation payable to the dependents of a non-earning housewife/mother, it would be reasonable to rely upon the criteria specified in clause (6) of the Second Schedule and then apply appropriate multiplier keeping in view the judgments of this Court in General Manager Kerala State Road Transport Corporation v. Susamma Thomas (Mrs.) and others, U.P. S.R.T.C. v. Trilok Chandra, Sarla Verma (Smt.) and others v. Delhi Transport Corporation and another and also take guidance from the judgment in Lata Wadhwa's case."

14. In Arun Kumar Agrawal's case, though legal representatives claimed that she earned Rs.50,000/- per month by painting and handicrafts, the tribunal therein fixed the monthly income at Rs.5,000/- for computing the loss of contribution to the family and awarded Rs.6,00,000/- as compensation. But, on appeal, the High Court reduced the same. When the correctness of the decision of the High Court was tested, the Hon'ble Supreme Court, after considering the various principles, The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), gratuitous service rendered by the wife/mother and also observing that gender equality has to be maintained in assessing compensation for house wives, victims of road accident, restored the original compensation awarded by the claims tribunal.

15. Having regard to the date of accident, gratuitous services rendered by a woman being the wife/mother and a homemaker, we deem it fit to fix the monthly income as Rs.6,500/-. Having regard to her age 35 years, 50% under the head future prospects. Income for the purpose of computing loss of future earning works out to Rs.9,750/-. Application of multiplier cannot be disputed. Loss of future earning capacity is estimated as Rs.9,36,000/- (Rs.9,750/- x 12 x 16 x 50/100).

16. Considering the nature of injuries, period of treatment stated supra, Rs.25,000/- awarded under the head, pain and suffering is less. Hence, it is enhanced to Rs.50,000/-. Injured has been hospitalised for quite some time. Rs.9,750/- awarded under the head nutrition is enhanced to Rs.15,000/-. Attendant charges of Rs.5,000/- awarded by the Tribunal is less. Hence, we deem it fit to enhance the same to Rs.25,000/-. She has been treated in different hospitals and hence transportation charges of Rs.10,000/- awarded by the Tribunal, is enhanced to Rs.20,000/-

17. In Cholan Roadways Corporation Limited., Kumbakonam . vs. Ahmed Thambi and others reported in 2006 (4) CTC 433, a Hon'ble Full Bench of this court, has discussed about loss of amenities. Loss of amenities means, deprivation of the ordinary experiences and enjoyment of life and includes loss of the ability to walk or see, loss of a limb or its use, loss of congenial employment, loss of pride and pleasure in one's work, loss of marriage prospects and loss of sexual function. Relevant portion of the said judgment is extracted below:

> "In order to avoid any future confusion and to bring more clarity and transparency in the award of damages, it is necessary that the Tribunal, while awarding damages, should itemise the award under each of head namely,pecuniary losses and non-pecuniary losses. In the non-pecuniary losses the tribunal shall consider(a)pain and suffering, (b) loss of amenity,(c) loss of expectation of life, hardship, mental stress, etc (d) loss of prospect of marriage and under the head pecuniary losses, the tribunal shall consider loss of earning capacity and loss of future earnings as one component apart from medical and other expenses and loss of earning, if any from the date of accident till the date of trial. When loss of earning capacity is compensated as also the non-pecuniary losses under (a) to (d), permanent disability need not be separately itemised".

18. Tribunal has failed to award any amount under the head Loss of amenities. Considering the nature of injuries, extent of disablement and following the above decision, Rs.50,000/- is awarded under the said head. In addition to the above, we deem it fit to award a sum of Rs.2,000/- for damages to clothes and articles. Medical expenses of Rs.4,41,141/- is substantiated by production of Ex.P7-Medical Bill series and therefore, the same is sustained. In view of the re-working, total compensation due and payable to Rajasubhashini/claimant in MCOP No.147/2012/1st respondent in CMA No.1479/2015 and first Cross Objector in Cross Objection No.64/2016 works out to Rs.15,39,141/-. For the sake of convenience, the detailed compensation are as follows:

Loss of earning capacity	:	Rs. 9,36,000/-
For Pain and suffering	:	Rs. 50,000/-
For Nutrition	:	Rs. 15,000/-
Attendant charges	:	Rs. 25,000/-
Transportation charges	:	Rs. 20,000/-
Loss of amenities	:	Rs. 50,000/-
Damage to clothes	:	Rs. 2,000/-
Medical Expenses	:	Rs. 4,41,141/-
Total	:	Rs.15,39,141/-

19. Ms.C.Harini, learned counsel for the appellant/insurance company submitted that entire award amount with interest has already been deposited to the credit of MCOP No.147/2012 on the file of Motor Accident Claims Tribunal (Additional Sub Court), Vriddhachalam. In the light of determination of the quantum of compensation as Rs.15,39,141/-, appellant/insurance company is permitted to seek for withdrawal of the balance amount with proportionate interest. Civil Miscellaneous Appeal No.1479/2015 is partly allowed. Cross Objection No.64/2016 filed by Rajasubhashini/claimant in MCOP No.147/2012/1st respondent in CMA No.1479/2015, is dismissed.

20. Insofar as the challenge to the loss of contribution to the family of Rs.24,71,400/- in MCOP No.148/2012, the same is sustained. Going through the materials on record, we are of the view that the same has been arrived at by applying proper principles of law. Therefore, it is sustained. Compensation of Rs.25,000/- awarded under the head loss of love and affection to the father aged about 70 years is less. It is enhanced to Rs.50,000/-. Similarly, Rs.25,000/- awarded under the head loss of love and affection to the minor is less. Following the decision of the Hon'ble Supreme Court in Reshma Kumari and others v. Madan Mohan reported in (2009) 13 SCC 422, the same is enhanced to Rs.1,00,000/- each, to the minor. The Tribunal has awarded Rs.1,00,000/- to the widow under the head loss of consortium, which we deem it just and reasonable and hence the same is sustained. The Tribunal has awarded Rs.10,000/- under the head funeral expenses. In Rajesh vs. Rajbir Singh, reported in 2013 (2) TN MAC 55 (SC) = 2013 (9) SCC 54, the Hon'ble Apex Court, awarded Rs.25,000/- towards funeral expenses, we deem it fit to award Rs.20,000/- under the head funeral expenses. The Tribunal has awarded a sum of Rs.10,000/- under the head Transportation, and it does not require any modification. The Tribunal has not awarded any amount under the head damages to clothes and articles. Hence we deem it fit to award a sum of Rs.2,000/- under the said head. The Tribunal, has not awarded any amount under the head loss of estate. Besides loss of love and affection of his father, minor child have also lost the estate. Hence, we deem it fit to award a sum of Rs.10,000/- under the head loss of estate to the minor child.

21. In view of the above reworking, compensation due and payable to the legal representatives of the deceased Kannan, works out to Rs.27,63,400/-. Tribunal has awarded Rs.26,41,400/-. There is enhancement of Rs.1,22,000/-. For the sake of convenience, split-up particulars of the compensation is detailed below:

Loss of contribution to the family	: Rs.24,71,400/-
Loss of consortium	: Rs. 1,00,000/-
Loss of love and affection to father	: Rs. 50,000/-
Loss of love and affection to minor child	: Rs. 1,00,000/-
Funeral Expenses	: Rs. 20,000/-
Transportation charges	: Rs. 10,000/-
Loss of estate	: Rs. 10,000/-
Damage to clothes	: Rs. 2,000/-
Total	: Rs. 27,63,400/-

Ms.C.Harini, learned counsel for the appellant/insurance company, submitted that insurance company has already deposited a sum of Rs.31,95,922/- on the award amount of Rs.26,41,400/- with proportionate interest at the rate of 7.5% per annum. Now, in the light of enhancement, as indicated, appellant/insurance company, is directed to deposit the balance amount with proportionate interest and cost, within a period of four weeks from the date of receipt of a copy of this order.

22. Having regard to the welfare of the minor child, we direct that the enhanced amount of Rs.1,22,000/- with proportionate interest at the rate of 7.5% per annum from the date of claim till deposit, should be apportioned to the minor, and the same be deposited in any one of the Nationalised Banks under reinvestment scheme, proximate to the residence of the minor child and renewable thereafter. Repondent No.1/mother of the minor child is permitted to withdraw interest once in three months, till the minor child attains majority. Wife and father of the deceased, being majors, are permitted to withdraw the share apportioned to them, with proportionate interest and cost. C.M.A.No.1480/2015 filed by Cholamandalam MS General Insurance Co. Ltd. is dismissed. Cross Objection No.65 of 2016 filed by the legal representatives of the Kannan, is partly allowed.

In the result, C.M.A.No.1479 of 2015, filed by M/s.Cholamandalam MS General Insurance Co. Ltd., is allowed in part. Cross Objection No.64 of 2016, filed by the claimant is dismissed. C.M.A.No.1480 of 2015 filed by M/s.Cholamandalam MS General Insurance Co. Ltd., is dismissed. Cross Objection No.65 of 2016, filed by the legal representatives of Kannan, is partly allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

asr

To

The Motor Accident Claims Tribunal,
[Additional Sub Court],
Vriddhachalam.

Copy To

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

+1cc to Mr.F.Terry Chellaraja, Advocate, S.R.No.14768

C.M.A.No.1479, 1480 of 2015
and
Cross Objection Nos.64 and 65 of 2016

SSI(CO)
CA(04/07/2017)