IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2017

CORAM:

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

C.M.A.No.2269 of 2015

1. Maruvammal
2. Ramani
3. Janarthanan ...Appellants/Petitioners

vs.

The Managing Director,
TNSTC Ltd., Villupuram,
Kancheepuram Region. ...Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decreetal Order in MCOP No.690 of 2013 dated 22.07.2015 on the file of Motor Accidents Claims Tribunal, [Principal Subordinate Judge], Tindivanam.

For Appellants : Mr.UM.Ravichandran

For Respondent : Mr.S.Sairaman

J U D G M E N T

[Order of the Court was made by S.MANIKUMAR, J.]

Not satisfied with the quantum of compensation of Rs.3,95,000/- with interest at the rate of 7.5% per annum from the date of claim till deposit and costs, awarded in MCOP No.690 of 2013, on the file of Motor Accidents Claims Tribunal, [Principal Subordinate Judge], Tindivanam, mother and two brothers of the deceased, have filed the instant appeal claiming compensation.

2. Material on record discloses that though the appellants/legal representatives have contended that mother was running a poultry in the name and style of 'Suguna Poultry Farm Limited' and that there was a also a bank account, substantiated by marking Ex.P5, Farmer's Passbook and Ex.P6, Indian Bank Passbook, containing details and that the deceased Raja was helping his mother in the said poultry farm and earned a sum of Rs.10,000/- per month, by observing that individual earning of

the deceased was not proved, but taking note of the age of the deceased, 25 years, the tribunal determined the monthly income as Rs.5,000/- and computed the loss of contribution to the family. Being aggrieved by the said determination of monthly income and consequently, computation of loss of contribution to the family, instant appeal has been filed.

3. In addition to the above, by inviting the attention of this Court to the quantum of compensation awarded under the head loss of love and affection, transportation and funeral expenses, Mr.UM.Ravichandran, learned counsel for the appellants sought for enhancement.

4. Per contra, Mr.S.Sairaman, learned counsel for the respondent-transport corporation submitted that award of the tribunal is just and reasonable and does not require any enhancement.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. After going through Ex.P5, Farmer's passbook and Ex.P6, Indian Bank passbook with details, the tribunal has observed that both the documents are in the name of mother / 1st appellant. Upon perusal of the same, the tribunal has observed that 1st appellant has been running a poultry in the name and style of 'Suguna Poultry Farm Limited'. Taking note of the entries in Ex.P5, Farmer's passbook, tribunal has also observed that the name of the deceased viz., Raja, has been entered. But, the tribunal has observed that Ex.P5, could have been obtained after the accident and that name of the deceased Raja, could have been entered thereafter. Based on the above documents, the tribunal has categorically found that mother /1st appellant has been running a poultry farm.

7. Case of the appellants is that the deceased Raja was assisting his mother and earned Rs.10,000/- per month. When mother is running a poultry firm, there is always a possibility of her son assisting the same. Even taking it for granted that the oral testimony of mother / 1st appellant, as not acceptable, even otherwise, the deceased aged about 25 years would have engaged in some avocation and earned a reasonable income.

8. Accident has occurred on 06.07.2013. In the light of the judgments of Hon'ble Supreme Court in Sri Ramachandrappa Vs. The Manager, Royal Sundaram alliance Company Ltd., reported in 2011 (13) SCC 236, Syed Sadiq and others Vs. DM UIIC Ltd., reported in CDJ 2014 SC 044, and Munna Lal and another Vs. Vipin Kumar Sharma and others, reported in CDJ 2015 SC 476, sum of Rs.5,000/- fixed as monthly income of the deceased aged 25 years is less.

9. Consumer Price Index is a measure of changes in the purchasing-power of currency and the rate of inflation. The consumer price index expresses the current prices of a basket of goods and services in terms of the prices during the same period in a previous year and indicate the effect of inflation on the purchasing power. It is determined on the expenditures of all the residents in urban or metropolitan areas, including the professionals, self-employed, poor, unemployed and retired persons, as well as urban wage earners and clerical workers. Consumer Price Index in common parlance is also called as cost-of-living index. A cost-of-living index would measure changes over a time, in the amount that consumers need to spend to reach a certain utility level or standard of living.

10. Consumer Price Index represents all the goods and services, purchased and consumed by the reference population in relation to food and beverages (milk, coffee and all the essential food items), housing (rent, furniture, etc.,), clothing, transportation (vehicles, bus, train and other modes of transport fares), medical care (drugs and medicines, doctor services and hospital services), recreation, education and communication (school or college fee, telephone services, computer software) etc., beside there are other goods and services (personal services). Consumer Price Index also includes government-charged fees, such as, electricity, water and sewerage charges, etc. In addition, Consumer Price Index also includes taxes (such as sales tax and excise duty) that are directly associated with the prices of specific goods and services.

11. Consumer Price Index depends upon the area, field of activity, trade or business. Let us take a sample, as to how the same has been considered, for periodical wage revision in Chennai District. On basis of Consumer Price Index for Chennai District, minimum wages per day for various categories of employees, has been revised and refixed by the District Collector, Madras. Proceedings have been issued in Roc.No.C2/12769/2010, dated 02.06.2010 for the year 2010-11; Roc.No.C2/12769/2010, dated 07.06.2010 for the year 2011-12; Roc.No.C2/8680/2013, dated 22.05.2013 for the year 2013-14; and Roc.No.C2/12784/2014, dated 26.05.2014 for the year 2014-15. As per the proceedings of the Principal Secretary / Commissioner Department of Economics & Statistics letter No.Pdl 49/J/2015 dated 04.05.2015, the Consumer Price Index for Industrial Workers for Chennai District for the month of March 2015, has been fixed as 236 points. Thereafter, the daily wages for the year 2015-16 for categories have been fixed following the methodology hereunder

Rate for the year year(2015-2016) = $\frac{\text{Index for March 2015 (236)}}{\text{Index for March 2014 (221)}}$ Rate for the x(2014-2015)

Roc.No.C2/13459/2015, dated 29.05.2015 is for the year 2015-16. Details are tabulated hereunder:

Sl. No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (Rs.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
1	Auto Electrician	179	16.38	195	10.06	205	30.18	235	22.65	263	15.08	278	297
2	Attender	194	17.76	212	10.94	223	32.83	256	30.12	286	16.43	303	324
3	Brick Layer - I Class	209	19.13	228	11.77	240	35.34	275	32.35	307	17.65	325	347
4	Brick Layer - II Class	206	18.85	225	11.61	237	34.90	272	32.0	304	17.45	322	344
5	Black Smith - I Class	209	19.13	228	11.77	240	35.34	275	32.35	307	17.65	325	347
6	Black Smith - II Class	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
7	Bell Boy	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233
8	Barber	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
9	Bromide Painter	209	19.13	228	11.77	240	35.34	275	32.35	307	17.65	325	347
10	Binder	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269

Sl. No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (Rs.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
11	Carpenter - I Class	209	19.13	228	11.77	240	35.34	275	32.35	307	17.65	325	347
12	Carpenter - II Class	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
13	Cartman	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
14	Conductor	172	15.74	188	9.17	198	29.15	227	26.71	254	14.57	268	286
15	Cook/ Buttler	182	16.66	199	10.27	209	30.77	240	28.24	268	15.40	284	303
16	Assistant Cook	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
17	Casual Labourer	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
18	Normal Labourer	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
19	Cleaner	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
20	Casual Deikand	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
21	Casual Water Taper	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313

Sl. No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (Rs.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
22	Carthire Charges for Bringing Kosha Girls	101	9.24	110	5.68	160	17.08	133	15.65	149	8.53	157	168
23	Compositor	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
24	Head Compositor	194	17.76	212	10.94	223	32.83	256	13.12	286	16.43	303	324
25	Cobbler	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
26	Double Bullock Cart (including Bulls and Driver)	179	16.38	195	10.06	205	30.18	235	22.65	263	15.08	278	297
27	Double Bullock Cart (with Driver for Sanitory Works)	179	16.38	195	10.06	205	30.18	235	22.65	263	15.08	278	297

Sl. No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (Rs.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
28	Single Bullock Cart (with Driver for Sanitory Works)	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
29	Driver	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
30	Dhobi	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
31	Duffer	179	16.38	195	10.06	205	30.18	235	22.65	263	15.08	278	297
32	Electrical Assistant	263	24.07	287	14.81	302	44.47	346	40.71	387	22.20	409	437
33	Engine Driver – II Class	269	24.62	294	15.17	209	45.50	354	41.65	396	22.72	418	446
34	Fitter – I & II Class	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
35	Ferro Painter	209	19.13	228	11.77	240	35.34	275	32.35	307	17.65	325	347
36	Gardener	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233
37	Hammer Man	172	15.74	188	9.70	198	29.15	227	26.71	254	14.57	268	286

Sl.No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (Rs.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
38	Khalasi	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
39	Luscar	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
40	Laboratory Assistant	209	19.13	228	11.77	240	35.34	275	32.35	307	17.65	325	347
41	Line Operator	194	17.76	212	10.94	223	32.83	256	13.12	286	16.43	303	324
42	Trade Man for Stitching, Mending Cloth items	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
43	Mazdoor	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
44	Head Mazdoor	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
45	Boy Mazdoor	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233
46	Mopier Labourer	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233
47	Masalchi	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233
48	Meat Arresper	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269

Sl. No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (Rs.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
49	Mali	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233
50	Head Mali	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
51	Mason	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
52	Machine Binder (Letter Press)	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
53	Machine Binder (Off-set)	209	19.13	228	11.77	240	35.34	275	32.35	307	17.65	325	347
54	Painter - I Class	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
55	Painter - II Class	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
56	Plumber - I Class	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
57	Plumber - II Class	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
58	Peon	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
59	Record Sorter	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297

Sl. No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (Rs.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
60	Sarang	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233
61	Swayer	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
62	Stone Cutter I Class	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
63	Stone Cutter II Class	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
64	Sweeper / Scavenger/ Sanitary Worker	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
65	Shaving Per Head	18	1.64	20	1.03	21	3.09	24	2.82	27	1.54	28	30
66	Hair Cut with Shaving per Head	54	4.94	59	3.05	62	9.13	71	8.35	79	4.56	84	90
67	Server including meals	101	9.24	110	5.68	116	17.08	133	15.65	149	8.53	157	168

Sl. No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (R s.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
68	Server excluding meals	148	13.54	162	8.36	170	25.03	195	22.94	218	12.51	231	247
69	Section Writer	122	11.16	133	6.86	140	20.61	161	18.94	180	10.33	190	203
70	Skilled Assistant	268	24.53	293	15.12	308	45.35	133	41.53	395	22.65	417	445
71	Tinker - I Class	188	17.21	205	10.58	216	31.08	248	29.18	235	15.91	293	313
72	Tinker - II Class	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
73	Tailor	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
74	Tennis Ground Marker	148	13.54	162	8.36	170	25.03	195	22.94	218	12.51	231	247
75	Tennis Ball Picker	127	11.62	139	7.17	146	21.50	167	19.65	187	10.72	197	210
76	Wooden Man	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
77	Wooden Woman	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
78	Water carrying water boy	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233

Sl. No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (Rs.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
79	Wood Cutter	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
80	Wireman	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
81	Watchman	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
82	Wireless Supervisor	268	24.53	293	15.12	308	45.35	353	41.53	395	22.65	417	445
83	Typist	205	18.76	224	11.56	236	34.75	271	13.88	303	17.39	320	342
84	Junior Assistant	205	18.76	224	11.56	236	34.75	271	13.88	303	17.39	320	342
85	Computer Operator/ Data Entry Operator	205	18.76	224	11.56	236	34.75	271	13.88	303	17.39	320	342

12. Taking note of the Consumer Price Index, inflation and such other economic factors, even a labourer in the year 2013, would have earned a sum of Rs.7,000/- or little more, depending upon the avocation, at the rate of Rs.200/- to Rs.250/- per day. We therefore, propose to determine the monthly income of the deceased as Rs.7,000/-

13. On the aspect as to whether a person working in an unorganised sector would be entitled to be compensated by addition of certain sum under the head the future prospects, a

Hon'ble Division Bench of this Court in C.M.A.No.3273 of 2014, dated 13.10.2015 [Royal Sundaram Alliance Insurance Co. Ltd., v. Tmt.Vennila], observed as follows :

"56. As tabulated in the foregoing paragraphs, it should be noted that Consumer Price Index, Gross Domestic Product and Per Capita Income, have increased. One cannot disown the fact that the percentage of those in unorganized sectors is more than the organised sectors. While that be so, would it be appropriate for the Insurance Companies and Transport Corporations, to contend that there is absolutely no chance of any upward revision in wages or salary of those, employed in unorganised sectors or for that matter in the earnings of self-employed. If the contentions of the Insurance Companies and Transport Corporations have to be accepted, whether the self-employed or those engaged in unorganised sectors, can never have any expectation of an event in future, ie., increase in earnings or wages? With the basic study of the statistics, we are of the considered view that the answer should be a clear 'No'. When the Consumer Price Index is applicable uniformally to rich or raff, it cannot be contended that those who are engaged in unorganized sectors or self-employed, would continue to earn the same income, for years together.

57. For the abovesaid reasons, we are of the considered view that the word, "prospects" should not be read and understood, only in plural sense, meaning thereby, its prospects or an apparent probability of advancement in employment, in organised sectors alone. Narrowing down the meaning of the words, "future prospects" only to the employment prospects and consequently, more possibility of earning income, only in the case of organised sector and not in unorganised sector or self-employed, would affect the majority and therefore, the meaning of the word, "prospect" used in singular, meaning thereby, expectation, possibility or probability, chances of earning more income in future, depending upon the factors, stated supra, should also be considered.

58. Thus, from the above particulars, extracted supra, it is evident that both the Central and State Governments have periodically revised the minimum wages across the country. It has been raised taking into consideration the Consumer Price Index. In respect of scheduled employments, for skilled, semi-skilled, unskilled, construction workers, labourers, etc., wages, are fixed in various scheduled employments, right from Agarbathi Industry to Woolen Carpet and Shawl wearing machinery.

59. While that be the position in organised sectors, it cannot be contended that insofar as unorganised sectors or self-employed, is concerned, there would not be any revision in the wages or salary or earning. When the minimum wages of an employee in the organised sector, is revised periodically, taking into consideration the Consumer Price Index and Variable Dearness Allowance, the living conditions, then the others, in a unorganised sector may expect more or less the same wage, and if there are more number of persons, there may be chances of lesser wage, on account of surplus human resources and in such cases, the bargaining power of certain class of employees, depending upon the field, for revision of wages or earning, may be less.

60. If a non-salaried domestic worker sells a piece of any article, which he or she manufacturers and if the customer bargains the rate, he or she would immediately reply, as to how much amount, he/she has to spend for buying the basic materials, other materials used, compare the erstwhile travel expenses and the cost of labour. Can anyone in this Country can say that the electricity charges, water charges, rent, fee received by the Government, cost of education, price of commodities, etc., have remained the same, without any change. Cost of tea sold in a ordinary tea stall is the same for any person, whether engaged in organised or unorganised. Contenting inter alia that there would not be any increase in wages or earning for those engaged in unorganised sectors, for years to come, can it be said that he would never take a cup of tea, outside?

61. At this juncture, it should be borne in mind that Consumer Price Index is fixed, taking into consideration that the majority consumers are from unorganised sectors. Thus, with reference to Gross Domestic Product, Per Capita Income, Consumer Price Index and such other economic factors, determined on the basis of participation and contribution of both organised and unorganised sectors, the classification that those engaged in unorganised sectors, should be totally denied of any addition of income under the head, future prospects, would in our humble view, would affect Article 14 of the Constitution of India. When the majority of persons, in unorganised sectors, also decide the economic factors, stated supra, it would be unjust and unreasonable to contend that there would not any prospect or addition in the earning of those engaged in unorganised sector, forever. If there is addition of Variable Dearness Allowance to the basic wages, in the case of organised sector, depending upon the Consumer Price Index, applicable

for a particular period, one would reasonably expect the same factor of variable Dearness Allowance, to be a relevant factor, for determining the variation in the wage in case of unorganised sector also, as Consumer Price Index is common to all, whether engaged in organised or unorganised sector.

62. At this juncture, we deem it fit to consider, what "Dearness Allowance" means? "Dearness Allowance" is a cost of living adjustment allowance paid to Government employees, Public sector employees (PSU)and pensioners. Dearness Allowance is calculated as a percentage of an Indian's basic salary to mitigate the impact of inflation. Variable Dearness Allowance is always linked to Consumer Prince Index. The notifications of Minimum wages by the Central and State Government reflects how much is the Variable Dearness in each field.

63. In the light of what we have tabulated above, judicial notice can also be taken that the cost of labour, whether it is in agricultural field or manufacturing or services, has increased. Thus, focusing on the increase in wages or earning, in almost all the fields of operation, right from agricultural or industrial or manual labourers, tea shop or road side vendor, the Consumer Price Index, being the same to rich or raff and therefore, correspondingly to meet out the living conditions, atleast for providing the basic amenities, like food, shelter and clothing, and not to add up the expenditure towards health, education, certainly, there would be revision of wages or earning, even in unorganised sectors also. Future is the period of time that will come after the present or things that will happen. Having regard to the consistent and periodical revision of wages by the Governments, it cannot be contended by the Insurers or Transport Corporations that a person in unorganised sector, has no future at all, in the matter of revision of wages or earning.

64. In R.K.Malik's case (cited supra), the Hon'ble Supreme Court considered the quantum of compensation, payable to the legal representatives of the deceased children, aged between 10 and 18 years. Referring to the inflation, price rise, etc., the Hon'ble Supreme Court, by observing that the there would be a future prospects, for the children also, granted a sum of Rs.75,000/- under the head, future prospects, though as on the date of accident, they were children, studying in a school. In V.Mekala's case (cited supra), the injured was a student studying in 11th Standard. While determining the monthly income of the injured as Rs.10,000/-, the Hon'ble Supreme Court added 50% of the income, under the head, future

prospects. In the recent decision in Munna Lal Jain's case (cited supra), the Hon'ble Supreme Court added 50% under the head, future prospects.

65. Thus, from the line of judgments, it could be noticed that the Hon'ble Supreme Court has considered the addition of a quantified sum, under the head, future prospects, in effect, indicating that there is a prospect or chance or possibility of earning more income, after a passage of time, though not periodically, as done in the case of Government or Public Sector Undertakings or Boards or Corporations, Companies owned and controlled by the Government or Limited Companies.

66. We have already extracted the orders of the Chief Labour Commissioner, Ministry of Labour and Employment, Government of India, New Delhi and taken into consideration a sample case, City of Chennai. Wage revision may vary in rural or urban areas or metropolitan cities. At the risk of repetition, as observed earlier, the number of persons, engaged in unorganized sectors, agriculture or industrial, or home based or self-employment, etc., are more in number, than those employed in organised sectors.

67. Income from the organised sector alone, is not the deciding factor, for determining Gross Domestic Product, Consumer Price Index or Per Capita Income. Thus, from a basic study of the factors, taken into consideration by the Governments for revision of wages, to the enumerated categories of employees, one cannot lose sight of the fact that the said factors, would also have an indeligible effect on those, engaged in unorganized sectors also. In the light of our discussion and the details considered, we are of the considered view that addition of certain percentage of income under the head, future prospects, has to be done in the case of those engaged in unorganized sector or self-employed also, otherwise, they would be deprived of just compensation. Addition of income under the head,future prospects, should not be restricted to only salaried persons, with stable jobs.

68. Though it is the case of the Insurance Companies and Transport Corporation that in the case of persons engaged in unorganised sector or salaried or persons, who do not have any permanent job, addition of certain percentage of income, under the head, "future prospects", to the income drawn, at the time of death, should not be made, for computation loss of dependency compensation, we are not inclined to accept the same, for the reason that the expression "future prospects" should not be confined only to the prospects of the deceased in the career, progress or

upgradation of position, in which, he was engaged, prior to death, but the expression "future prospects" should also be extended to the likelihood of increase in wages/salary, earned by either a skilled or semi-skilled person, clerical and others, considering the upward increase in the cost price, inflation and such other factors."

14. In the light of the decision of a Coordinate Bench, to which one of us [Hon'ble Mr.Justice S.Manikumar], is a party, we add 50% of the income (i.e. Rs.3,500/-) towards future prospects for computing the loss of contribution to the family.

15. As the deceased was aged about 25 years, proper multiplier is 18. He was a bachelor. In terms of 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), 50% should be deducted towards personal and living expenses. Thus, by applying the above principle, loss of contribution to the family works out to Rs.11,34,000/- [Rs.10,500/- x 12 x 18 x 50%]

16. Sum of Rs.40,000/- alone has been awarded under the head loss of love and affection, to the mother and two brothers. As rightly contended by Mr.UM.Ravichandran, learned counsel for the appellants, it is meagre. A sum of Rs.50,000/- each under the said head would be just and reasonable. Therefore, compensation of Rs.40,000/- awarded under the head loss of love and affection is enhanced to Rs.1,50,000/-. Transportation expenses of Rs.10,000/- is less. It is enhanced to Rs.15,000/-.

17. In Rajesh and others Vs. Rajbir Singh, reported in 2013 ACJ 1403, while considering the compensation awarded under the head, funeral expenses, the Hon'ble Apex Court, at paragraph No.21, observed as follows:

"We may also take judicial notice of the fact that the Tribunals have been quite frugal with regard to award of compensation under the head 'Funeral Expenses'. The 'Price Index', it is a fact has gone up in that regard also. The head 'Funeral Expenses' does not mean the fee paid in the crematorium or fee paid for the use of space in the cemetery. There are many other expenses in connection with funeral and, if the deceased is follower of any particular religion, there are several religious practices and conventions pursuant to death in a family. All those are quite expensive. Therefore, we are of the view that it will be just, fair and equitable, under the head of 'Funeral Expenses', in the absence of evidence to the contrary for higher expenses, to award at least an amount of Rs.25,000/-."

18. In the abovesaid reported case, the accident occurred on 05.10.2007. In the light of the observation of the Hon'ble

Supreme Court and reverting to the case on hand, quantum of compensation of Rs.15,000/-, awarded under the head, 'funeral expenses' is less. The Apex Court in the reported judgment awarded Rs.25,000/- towards funeral expenses. Hence, following the same, funeral expenses is enhanced to Rs.25,000/-.

19. Deceased was stated to have assisted his mother in the poultry farm. Certainly, she would have lost the guidance and support to run the poultry. Loss of estate is one factor, which has to be considered while awarding compensation. Rs.10,000/- is awarded under the said head. Conventional damages of Rs.2,000/- is awarded.

20. After reworking, compensation due and payable to the appellants/legal representatives of the deceased works out to Rs.13,36,000/- with interest at the rate of 7.5% per annum from the date of claim, till deposits and costs, as hereunder.

Loss of contribution to family	: Rs.	11,34,000/-
Loss of love and affection (Rs.50,000/- to each appellants)	: Rs.	1,50,000/-
Transportation	: Rs.	15,000/-
Funeral expenses	: Rs.	25,000/-
Loss of estate	: Rs.	10,000/-
Conventional Damages	: Rs.	2,000/-

Tribunal has awarded Rs.3,95,000/-. On appeal, this Court has enhanced the same to Rs.9,41,000/-.

21. Though Mr.S.Sairam, learned counsel for the respondent-transport corporation submitted that the compensation determined by the tribunal with proportionate interest has been deposited to the credit of MCOP No.690 of 2013, on the file of Motor Accidents Claims Tribunal, [Principal Subordinate Judge], Tindivanam, Mr.UM.Ramichandran, learned counsel for the appellants/legal representatives, refuted the said contentions.

22. Be that as it may, in view of the redetermination of the compensation amount, Managing Director, Tamilnadu State Transport Corporation Limited, Villupuram, Kancheepuram Division, is directed to deposit the compensation amount of Rs.13,36,000/- with interest at the rate of 7.5% per annum, from the date of claim till deposit, and costs awarded in the claim petition to the credit of MCOP No.690 of 2013, on the file of Motor Accidents Claims Tribunal, [Principal Subordinate Judge], Tindivanam, if not deposited earlier.

23. If the transport Corporation has already deposited the amount awarded by the tribunal with interest and costs, less the statutory deposit, then, transport corporation is directed to deposit the enhanced amount of Rs.9,41,000/- with interest at the rate of 7.5% per annum, from the date of claim till deposit, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the appellants/claimants are entitled to seek for withdrawal.

24. The Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

ars/skm

To

The Motor Accident Claims Tribunal,
[Principal Subordinate Judge], Tindivanam,

+1cc to Mr.Um.Ravichandran,Advocate sr.18947

+1cc to Mr.S.Sairaman,Advocate sr.18629

C.M.A.No.2269 of 2015

ss(co)
ss(2/6/2017)