



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.219 of 2015

- 1.P.Ponnamma
- 2.Mathi
- 3.Chinnamma
- 4.Rajangam
- 5.Veeraselvam
- 6.Arumugam
- 7.Murugan
- 8.Kavitha

: Appellants/Petitioners

Vs.

1. P.Palanichamy
2. Shriram Gerneral Insurance Company Limited,
Madurai,
Through its Branch Manager,
Suguna Stores Complex 2nd Floor,
Anna Nagar, Madurai-20.

: Respondents/Respondents

Prayer: This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 07.08.2012 passed in M.C.O.P.No.1411 of 2010 on the file of the Motor Accidents Claims Tribunal, (5th Additional District Court), Madurai.

For Appellants	: Mr.S.I.Robert Chandrakumar
For Respondent No.1	: Mr.J.Bala Meenakshi
For Respondent No.2	: Mr.D.Sivaraman

JUDGMENT

Heard the learned counsel on either side.

2.The claimants have filed this appeal seeking enhancement of the compensation awarded to them by the Tribunal. The husband of the first appellant died in the accident involving the lorry belonging to the second respondent and insured with the second respondent herein. The deceased left behind his wife, five sons and two daughters.



3. Even in the petition filed by them, the monthly income earned by the deceased was mentioned as Rs.4,000/-. But the Tribunal fixed his monthly income as Rs.4,500/-. Similarly, even though, the age of the eldest son was 40 and the age of the first claimant was mentioned as 60, the Tribunal accepted at its face value. The age attributed to the deceased is 60 at the time of the accident. It is obvious that the deceased was aged above sixty years at the time of the accident. In that case, multiplier should be 7. But, taking the age given by the petitioner, his multiplier was fixed as 9. Therefore the Tribunal has been liberal and beneficial, while considering the claim of the petitioners/appellants. However it is seen that the damages awarded under the conventional heads such as loss of consortium, funeral expenses and loss of estate was fixed only at Rs.12,000/-. The Hon'ble Supreme Court held in **National Insurance Company Limited Vs. Pranay Sethi and Ors.** dated 31.10.2017, a sum of Rs.70,000/- has to be awarded under these heads. Therefore the compensation awarded by the Tribunal is enhanced by further sum of Rs.58,000/-.

4. Therefore the compensation payable to the claimants will have to be reworked as under:-

Sl.No	Heads	Amounts in Rs
1.	For loss of Income	Rs.3,24,000/-
2.	For loss of consortium for the 1 st appellant	Rs. 40,000/-
3.	For loss of love and affection Rs.4000/- each to the appellants 1 to 8	Rs. 32,000/-
4.	For Funeral expenses	Rs. 20,000/-
5.	For loss of estate	Rs. 10,700/-
	Total	Rs.4,26,700/-

5. Therefore the compensation payable to the claimants will have to be enhanced from Rs.3,68,700/- to Rs.4,26,700/-. The award dated 07.08.2012, made in M.C.O.P.No.1411 of 2010, on the file of the Motor Accidents Claims Tribunal, (5th Additional District Court), Madurai is modified accordingly.

6. The second respondent is directed to deposit the entire compensation amount of Rs.4,26,700/- with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimants are entitled to withdraw the same, as apportioned by the Tribunal, less the amount already



withdrawn by them, if any, by filing proper application before the Tribunal.

7. This Civil Miscellaneous Appeal is partly allowed. No costs.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The 5th Additional District Judge,
(5th Additional District Court),
Motor Accidents Claims Tribunal, Madurai.

Copy To:-

The Record Keeper,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.I.ROBERT CHANDRAKUMAR, ADVOCATE IN SR No. 87156
+ 1 CC TO M/s.BALAMEENAKSHI, ADVOCATE IN SR No. 86814
+ 1 CC TO Mr.D.SIVARAMAN, ADVOCATE IN SR No. 86824

TSG/PSD

TE/SV/SAR-4 : 18/07/2018 : 3P/7C

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13.11.2017