



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.250 of 2015

- 1.K.Kamalam
- 2.K.Kalaiselvi
- 3.K.Venkateshwari
- 4.Minor.Anusuya
- 5.Minor K.Lavanya
- 6.S.Rengammal
- 7.P.Subramaniyan

(Minor appellant 4 is represented
by her mother and natural guardian
1st appellant K.Kamalam herein)

(2nd Appellant declared as major and guardianship
discharged as per the Order of this Court dated
03.11.2016 made in C.M.P. (MD).No.8071/2016 in
C.M.A. (MD).No.250/2015)

(3rd Appellant declared as major and guardianship
discharged as per the order of this Court dated
06.10.2017 made in C.M.P. (MD).No.8507/2017 in
C.M.A. (MD).No.250/2015) ... Appellants/Petitioners

Vs.

1. Devar Raja Murugan @ Raja Devar ...1st Respondent/1st Respondent

(1st respondent was set ex-paerte,
hence he may be dispensed with)

2. M/s.Universal Sompo Gic Limited,
Represented by its Zonal Manager,
Capital Towers 5th Floor,
554 & 555, Anna Salai,
Teynampet,
Chennai.

...2nd Respondent/2nd Respondent

Prayer: Appeal filed under Section 173 of Motor Vehicles Act,
1988, against the award dated 18.12.2014 made in M.C.O.P.No.2040
of 2012 on the file of the Motor Accident Claims Tribunal/IV
Additional District Judge, Madurai.



For Appellants
For Respondents

: Mr.N.Sudhagar Nagaraj
: Mrs.K.R.Shivashankari
For Mr.S.Srinivasa Raghavan for R2
R1-Ex-parte in EB

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JUDGMENT

Heard the learned counsel on either side.

2.The claimant has filed this appeal seeking enhancement of the compensation awarded to him.

3.The principal contention raised by the learned counsel appearing for the appellant is that the monthly income was fixed at Rs.4,000/-. The accident taken place in the year 2012. Therefore, the monthly income shall be taken as Rs.6,500/-. The deceased was working as a carpenter. He was a self employed person. Even for self employed person, as per the recent decision rendered in the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors.** dated 31.10.2017, 40% future prospects will have to be added. Since in view of the large number of dependants, only 1/5th deduction can be made. Therefore, the pecuniary loss is quantified at Rs.13,10,400/-. As per **National Insurance Company Limited Vs. Pranay Sethi and Ors**, there can be a award of a sum of Rs.70,000/- towards compensation under conventional heads. For transportation a sum of Rs.5,000/- can be awarded. Therefore, the compensation payable to the claimants will have to be reworked as under:-

Sl.No	Heads	Amounts in Rupees
1.	For pecuniary loss	Rs. 13,10,400/-
2.	For conventional heads	Rs. 70,000/-
3.	For transportation	Rs. 5,000/-
	Total	Rs. 13,85,400/-

4.The compensation awarded by the Tribunal is enhanced from Rs.12,85,000/- to Rs.13,85,400/-. The award dated 18.12.2014, made in M.C.O.P.No.2040 of 2012, on the file of the Motor Accident Claims Tribunal/IV Additional District Judge, Madurai, is modified accordingly.

5.The second respondent is directed to deposit the entire compensation amount of Rs.13,85,400/- 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.

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

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

The IV Additional District Judge,
Motor Accident Claims Tribunal,
Madurai.

Copy to

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.N.Sudhagar Nagaraj, Advocate Sr.No.87148
+1cc to Mr.S.Srinivasa Raghavan, Advocate Sr.No.87171

TSG

VB/MR/KKR/SAR2/21/12/2017/3P/5C

C.M.A. (MD) No.250 of 2015
14.11.2017