IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.07.2018

Coram

The Honourable Mr. Justice S.BASKARAN

Civil Miscellaneous Appeal Nos.2433 to 2436 of 2013

C.M.A.No.2433 of 2013:

1.Mohanapriya
2.Minor Dharsith
3.N.M.Krishnasamy
(Minor rep. by his mother
the first petitioner herein)
... Appellants/Petitioners

..vs..

1.K.Saravanakumar

2.The Managing Director,
Tamil Nadu Transport Corporation Ltd.,
Division-II,
Chennimalai Road, Erode.

3.D.Kalyani

4.The New India Assurance Company Ltd.,
No.83, T.S.R. Big Street,
Kumbakonam.

5.S.Kannan
... Respondents/Respondents

C.M.A.No.2434 of 2013:

1.Malar @ Mangayarkarasi
2.Minor Subhasidha
3.Lakshmi
4.Duraisamy
(Minor rep. by his mother the
the first petitioner herein)
... Appellants/Petitioners

..vs..

1.K.Saravanakumar

2.The Managing Director,
Tamil Nadu Transport Corporation Ltd.,
Division-II,
Chennimalai Road, Erode.

3.D.Kalyani

4.The New India Assurance Company Ltd.,
No.83, T.S.R. Big Street,
Kumbakonam.

5.S.Kannan

... Respondents/Respondents

C.M.A.No.2435 of 2013:

1.Thilagavathi
2.Minor Varshini
3.Suseela
4.Sugavanam
(Minor rep. by his mother
the first petitioner herein)

... Appellants/Petitioners

..vs..

1.K.Saravanakumar

2.The Managing Director,
Tamil Nadu Transport Corporation Ltd.,
Division-II,
Chennimalai Road, Erode.
3.D.Kalyani

4.The New India Assurance Company Ltd.,
No.83, T.S.R. Big Street,
Kumbakonam.

5.S.Kannan

... Respondents/Respondents

C.M.A.No.2436 of 2013:

1.Sharmila Rani

2.Minor Jaya Nithi

3.Chandra
4.K.M.Murugesan
(Minor 2nd respondent rep. By her mother, Natural Guardian Smt.Sharmila Rani)

... Appellants/Petitioners

..vs..

1.K.Saravanakumar

2.The Managing Director,
Tamil Nadu Transport Corporation Ltd.,
Division-II,
Chennimalai Road, Erode.

3.D.Kalyani

4.The New India Assurance Company Ltd.,
No.83, T.S.R. Big Street,
Kumbakonam.

5.S.Kannan

... Respondents/Respondents

PRAYER IN C.M.A.No.2433 of 2013:

This Civil Miscellaneous Appeal has filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decreetal Order dated 05.02.2013, made in MCOP.No.794 of 2008 on the file of the Motor Accident Claims Tribunal/(Principal District Court), Erode.

PRAYER IN C.M.A.No.2434 of 2013:

This Civil Miscellaneous Appeal has filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decreetal Order dated 05.02.2013, made in MCOP.No.841 of 2008 on the file of the Motor Accident Claims Tribunal/(Principal District Court), Erode.

PRAYER IN C.M.A.No.2435 of 2013:

This Civil Miscellaneous Appeal has filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decreetal Order dated 05.02.2013, made in MCOP.No.795 of 2008 on the file of the Motor Accident Claims Tribunal/(Principal District Court), Erode.

PRAYER IN C.M.A.No.2436 of 2013:

This Civil Miscellaneous Appeal has filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decreetal

Order dated 05.02.2013, made in MCOP.No.840 of 2008 on the file of the Motor Accident Claims Tribunal/(Principal District Court), Erode.

For Appellants : Mr.S.Kaithamalaikumaran (in All CMAs)

Respondents : Mr.M.Krishnamurthy for R-4 (in All CMAs)
Mr.S.V.Vasanthakumar for Mr.S.SamuvelRaja Kumar R-2

(R1 exparte)
R5-Given up
R3-No Appearance

COMMON JUDGMENT

Being not satisfied with the quantum of compensation awarded by the Tribunal as per order dated 05.02.2013, made in MCOP.Nos.794, 795, 840 and 841 of 2008 on the file of the Motor Accident Claims Tribunal/(Principal District Court), Erode, the petitioners/claimants have filed these appeals to set aside the award passed by the Tribunal.

2.For the sake of convenience, the parties will be hereinafter referred to in this judgment as arrayed before the Tribunal.

3.The case of all the petitioners is that on 19.12.2007, while the deceased Sundaramurthy(MCOP.No.794 of 2008 in CMA.No.2433 of 2013), along with deceased Moorthy @ Easwaramoorthy (MCOP.No.841 of 2008 in CMA.No.2434 of 2013) and another deceased person, namely, Shankar(MCOP.No.795 of 2008 in CMA.No.2435 of 2013) and another deceased person, namely, Dinakar (MCOP.No.840 of 2008 in CMA.No.2436 of 2013), were proceeding from Erode to Coimbatore in the Car bearing Registration No.TN-49-T-5115, at about 01.45 p.m., while going near Mettukadai in Erode to Perunthurai Road, the 2nd respondent Transport Corporation bus bearing Registration No.TN-33-N-1626 driven by first respondent, came at high speed in the opposite direction and coming on the wrong side of the road, dashed against the car in which the deceased persons were travelling causing them fatal injuries. Only one person by name Jaganathan travelling in the car survived. The accident took place due to the rash and negligent driving by the first respondent driver of the second respondent Transport Corporation bus.

3.1.The petitioners in MCOP.No.794 of 2008 stated that the deceased Sundaramurthy was aged 28 years. He was the owner of Power Loom factory and also an agriculturists owning 15 acres of land. The petitioners who are the wife, son and father of the deceased were dependents on the deceased person. The deceased was earning Rs.25,000/- per month and they seek a sum of Rs.25,00,000/- as compensation from the respondents.

3.2.The petitioners in MCOP.No.795 of 2008 stated that the deceased Sankar was aged 33 years and he was earning a sum of Rs.10,000/- per month by working as Marketing Assistant in a private concern. The petitioners who are the wife, daughter and parents of the deceased were depending on the income of the deceased. Hence, they seek a sum of Rs.25,00,000/- as compensation from the respondents.

3.3.The petitioners in MCOP.No.840 of 2008 stated that the deceased was aged 32 years and he was the owner of private agencies, earning a sum of Rs.15,000/- per month. The petitioners are wife, daughter and parents of the deceased. All of them were depending on the income of the deceased. Hence, they seek a sum of Rs.30,00,000/- as compensation from the respondents.

3.4.The petitioners in MCOP.No.841 of 2008 states that the deceased was aged about 33 years and he was doing textile business, earning a sum of Rs.20,000/- per month. The petitioners who are the wife, daughter and parents of the deceased, were depending on the income of the deceased. Hence, they seek a sum of Rs.30,00,000/- as compensation from the respondents.

4.On the other hand, opposing the claim petitions, the second respondent Transport Corporation by filing counter contends that the accident does not occur in the manner alleged by the petitioners. The driver of the third respondent drove the vehicle in a rash and negligent manner at high speed, came to the wrong side of the road, in the opposite direction of the bus and on seeing this the second respondent bus driver slowed down the speed of the bus and turned to the extreme left side of the road. Inspite of it, due to the over speed, the third respondent car driver lost control and dashed against the front side of the second respondent bus. The accident occurred only due to the rash and negligent driving of the driver of the third respondent car. The second respondent Transport Corporation bus driver is no way responsible for the accident. The police also registered the criminal case only against the driver of the car bearing Registration No.TN-49-T-5115. The second respondent Transport Corporation is not liable to pay compensation. The claim of the petitioners about the age, avocation and income of the deceased is denied. The amount claimed by the petitioners is highly exorbitant. The plea of the petitioners is not correct. Thus, the second respondent Transport Corporation sought for dismissal of all the claim petitions.

5.The 3rd respondent/owner of the car filed counter stating that the car bearing Registration No.TN-49-T-5115 was sold to one Kannan on 01.09.2007 itself. As such, the third respondent is not the owner of the car on the date of accident and she is not liable to pay any compensation. The claim of the petitioners is denied. Thus, the third respondent/owner of the vehicle sought for dismissal of the claim petition.

6.Likewise, opposing the claim petition, the 4th respondent Insurance Company by filing counter contends that the 3rd respondent car bearing Registration No.TN-49-T-5115 is no way responsible for the accident. It is only due to the rash and negligent driving of the second respondent bus driver, the accident occurred. The claim of the petitioners is highly excessive. Thus, the 4th respondent seeks dismissal of the petition.

7.Before the Tribunal, MCOP.No.794 of 2008 (CMA.No.2433 of 2013), MCOP.No.795 of 2008 (CMA.No.2435 of 2013), MCOP.No.840 of 2008 (CMA.No.2436 of 2013) and MCOP.No.841 of 2008 (CMA.No.2434 of 2013) were taken up for joint trial. The petitioners examined P.W.1 to P.W.8, produced documents Ex.P1 to Ex.P49 to prove their claim. The respondents examined R.W.1 to R.W.3, produced documents Ex.R1 to Ex.R7 to contradict the claim of the petitioners.

8.The Tribunal, on the basis of materials available on record, found the negligence of the driver of the second respondent Transport Corporation Bus and the driver of the third respondent car contributed to the accident in the ratio of 75% x 25% and passed an award for a sum of Rs.11,98,000/- (in MCOP.No.794 of 2008), Rs.11,98,000/- (in MCOP.No.795 of 2008), Rs.11,98,000/- (in MCOP.No.840 2008), and Rs.11,34,000/- (in MCOP.No.841 of 2008), respectively as compensation to the respective petitioners. Being not satisfied with the quantum of compensation awarded by the Tribunal, the petitioners/claimants in all the petitions have come forward with these present appeals.

9.Heard the learned counsel appearing for the Appellants/ claimants/petitioners and the learned counsel appearing for the 2nd respondent Transport Corporation and the learned counsel appearing for the 4th respondent Insurance Company and perused the materials available on record.

10.The learned counsel appearing for the appellants/ claimants/petitioners contends that the Tribunal failed to consider the evidence on record properly and fixed the income of the deceased very low. The Tribunal also deducted higher amount towards personal expenses of the deceased. The Tribunal failed to provide for future prospects. The amount provided by the Tribunal under different heads is very nominal. As such, the appellants/petitioners/claimants seek for enhancement of the award amount by entertaining the appeals.

11.Per contra, the learned counsel appearing for the 2nd respondent Transport Corporation contends that the Tribunal has wrongly fixed the negligence on the bus driver, while the negligence of the third respondent car driver alone caused the accident. The second respondent Transport Corporation is not liable to pay compensation. The award passed by the Tribunal is on the higher side. There is no need to enhance the award amount. Thus, the second respondent Transport Corporation sought for dismissal of these appeals.

12.Similarly, the 4th respondent Insurance Company contends that the negligence of the first respondent driver alone caused the accident resulting in the death of not only the passengers in the third respondent car but also the person who drove the said car. As such, it is contended that there is no negligence on the part of the driver of the third respondent vehicle who suffered fatal injuries in the accident. The 4th respondent contends that the award passed by the Tribunal is on the higher side. Hence, the 4th respondent seeks to set aside the award by reducing the quantum and also the negligence fixed on the third respondent car driver. Thus, the 4th respondent Insurance Company seeks to dismissal of these appeals accordingly.

13.The accident had occurred on the high way while two vehicles were moving in the opposite direction. The Tribunal after analysing the evidence on record found the negligence on the part of both the drivers have contributed to the accident. The Tribunal fixed the negligence at the ratio of 75% x 25% on the driver of the second respondent Transport Corporation bus and the driver of the third respondent car. Since, there is no appeal filed by the 2nd respondent Transport Corporation, the 4th respondent Insurance Company questioning the conclusion of the Tribunal with regard to apportionment of negligence on the drivers of both the vehicles, as stated above, the conclusion of the Tribunal regarding negligence and liability of the respondents has become final and there is no need to reconsidering the same. Thus, the findings of the Tribunal that the driver of the second respondent and the driver of the third respondent contributed to the accident in the ratio of 75% x 25% is appropriate and the same is confirmed.

14.MCOP.No.794 of 2008 in CMA.No.2433 of 2013:

The petitioners in MCOP.No.794 of 2008 stated that the deceased who is the husband of the first petitioner aged 28 years was running a power loom factory and by doing agriculture work was earning Rs.25,000/- per month. The petitioners stated that the deceased was aged 33 years. As there is no document regarding the age of the deceased, the Tribunal on the basis of Ex.P5 Postmortem Certificate fixed the age of the deceased Sundaramurthy as 33 years. It is evident from Ex.P7 statement of accounts of Erode Power Loom Weavers' Co-operative Production and Sales Limited, that the deceased was having business transaction with them. The petitioners also produced Ex.P3 Partnership Deed to prove that the deceased was carrying on business in partnership with three other persons. The deceased was also allotted some immovable properties under Ex.P9 partition deed. It is clear from Ex.P12 invitation that the deceased was functioning as Vice President of the Lions Club, Erode. It is therefore clear that the deceased was carrying on business and also possessed agricultural properties. Taking into consideration the said factors, the Tribunal fixed the notional income of the deceased at Rs.8,000/-. Even though the petitioners claim that the deceased was earning Rs.25,000/- per month, in the absence any proof for the same, like income tax returns or bank account pass book, this Court finds no merit in their claim. As such, the sum of Rs.8,000/- fixed by the Tribunal as the monthly income of the deceased is confirmed.

14.1.The deceased being aged 33 years and self employed person, it will be appropriate to add 40% of the income towards future prospects. Thus, his monthly income will be Rs.8,000/- x 40% = Rs.3,200/- + Rs.8,000/- = Rs.11,200/-. Considering the number of dependents were three persons, 1/3rd of the income is to be deducted towards personal expenses of the deceased. Thus, monthly contribution to the family will be Rs.11,200/- - 1/3rd amount of Rs.3,733/- = Rs.7,467/-. As the deceased was aged 33 years, the correct multiplier to be applied is 16. Thus, the loss of dependency is calculated as follows:-

Rs.7,467/- x 12 = Rs.89,604/- x 16 = Rs.14,33,664/-

14.2.Following the Apex Court decision reported in 2017 (2) TN MAG 609 (SC) NATIONAL INSURANCE CO. LTD., Vs. PRANAY SETHI AND OTHERS, towards loss of estate, loss of consortium and funeral expenses, this Court is inclined to modify the compensation as under:-

Loss of consortium	=	Rs. 40,000.00
Funeral Expenses	=	Rs. 15,000.00
Loss of Estate	=	Rs. 15,000.00
Total	=	Rs. 70,000.00

14.3.The learned counsel appearing for the Appellants/ Petitioners contended that the 2nd petitioner who is the son of the deceased has lost the love and affection of his father and he will suffer the same for his entire life and therefore the amounts granted by the Tribunal under the head “loss of love and affection” is very nominal. Hence, the petitioners sought for enhancement of the same. In support of the same, the learned counsel for the petitioners/claimants relied upon the Ruling of the Kerala High Court reported in 2017 SCC Ker 23174 [1.Valsamma and others Vs. V.A.Baiju, 2. Rev.FR.Joseph Vattakalam, and 3.The

National Insurance Co.Ltd., - MACA.Nos.711 and 921 of 2010], and the Ruling of this court reported in 2018(1) TN MAC 289 [Branch Office, New India Assurance Co.Ltd., Vs. Meenkashi and others]. Considering the same, the sum of Rs.50,000/- provided by the Tribunal loss of love and affection is confirmed. Further, the sum of Rs.5,000/- provided by the Tribunal under the head Transportation is also appropriate.

14.4.In view of the above said discussion, the compensation awarded by the Tribunal is modified as follows:-

Sl No	Heads	Amount awarded by the Tribunal	Awarded by this Court
1.	Pecuniary Loss of income	10,88,000.00	14,33,664.00
2.	Loss of Estate	-	15,000.00
3.	Loss of love and affection	50,000.00	50,000.00
4.	Funeral Expenses	5,000.00	15,000.00
5.	Transportation	5,000.00	5,000.00
6.	Loss of consortium	50,000.00	40,000.00
	Total	11,98,000.00	15,58,664.00

Accordingly, the sum of Rs.11,98,000/- awarded by the Tribunal is modified and enhanced to Rs.15,58,664/- and the same is rounded of to Rs.15,58,700/-.

15.MCOP.No.795 of 2008 in CMA No.2435 of 2013:

The petitioners in MCOP.No.795 of 2008 stated that the deceased who is the husband of the first petitioner was aged 33 years and by working as Marketing Assistant in a private agency at Karur was earning Rs.10,000/- per month. The deceased was also running a hand loom unit earning Rs.4,000/- per month from the same. In the absence of any documentary proof to prove the age of the deceased, the Tribunal on the basis of Ex.P14 Postmortem Certificate fixed the age of the deceased Shankar as 33 years. As per Ex.P16 under which the deceased was appointed as Marketing Agent for selling Bajaj Motor cycle, he was to receive Rs.1,000/- for every sale of the Bajaj motor cycle and Rs.1,500/- for every sale of the Bajaj Pulser motor cycle. The petitioners produced Ex.P17 Statement, which clearly shows the particulars of the vehicles sold through the deceased from July,2007 till December,2007. Considering the above said documents, the Tribunal fixed his income at Rs.8,000/- per month. Even though the petitioners contends that the Tribunal ought to have fixed is monthly income much higher, considering the documents available on record, this Court find that the amount of Rs.8,000/- fixed as monthly income by the Tribunal is appropriate and there is no need to interfere with the same.

15.1.The deceased being aged 33 years and he was working as Marketing Assistant in a private agency, it will be appropriate to add 40% of the income towards future prospects. Thus, his monthly income will be Rs.8,000/- x 40% = Rs.3,200/- + Rs.8,000/- = Rs.11,200/-. Considering the number dependents were four persons, $1/3^{rd}$ of his income is to be deducted towards personal expenses of the deceased. Thus, his contribution to the family will be Rs.11,200/- - $1/3^{rd}$ amount of Rs.3,733/- = Rs.7,467/- per month. As the deceased was aged 33 years, the correct multiplier to be applied is 16. Thus, the loss of dependency is calculated as follows:-

Rs.7,467/- x 12 = Rs.89,604/- x 16 = Rs.14,33,664/-

15.2.Following the Apex Court decision reported in 2017 (2) TN MAG 609 (SC) NATIONAL INSURANCE CO. LTD., Vs. PRANAY SETHI AND OTHERS, towards loss of estate, loss of consortium and funeral expenses, this Court is inclined to modify the compensation as under:-

Loss of consortium	=	Rs.	40,000.00
Funeral Expenses	=	Rs.	15,000.00
Loss of Estate	=	Rs.	15,000.00
Total	=	Rs.	70,000.00

15.3.In para 14.3 of this judgment, analysing the Kerala High Court ruling and this Court ruling, the sum of Rs.50,000/- provided by the Tribunal towards loss of love and affection is confirmed. Further, the sum of Rs.5,000/- provided by the Tribunal under the head Transportation is also confirmed.

15.4.Accordingly, the compensation awarded by the Tribunal is modified as follows:-

Sl No	Heads	Amount awarded by the Tribunal	Awarded by this Court
1.	Pecuniary Loss of income	10,88,000.00	14,33,664.00
2.	Loss of Estate	-	15,000.00
3.	Loss of love and affection	50,000.00	50,000.00
4.	Funeral Expenses	5,000.00	15,000.00
5.	Transportation	5,000.00	5,000.00
6.	Loss of consortium	50,000.00	40,000.00
	Total	11,98,000.00	15,58,664.00

Accordingly, the sum of Rs.11,98,000/- awarded by the Tribunal is modified and the same is enhanced to Rs.15,58,664/- and the same is rounded of to Rs.15,58,700/-.

16.MCOP.No.840 of 2008 in CMA No.2436 of 2013:

The petitioners in MCOP.No.840 of 2008 who are the wife, minor daughter and parents of the deceased contends that the deceased was aged 32 years and he was running Ice cream business earning Rs.20,000/- per month. The petitioners stated that the deceased was aged 32 years. As there is no document regarding the age of the deceased, the Tribunal on the basis of Ex.P28 Postmortem Certificate fixed the age of the deceased Dinaker as 32 years. They also produced Ex.P41 Partnership Deed to show that the deceased Dinakar and one Jaganathan were running Ice cream business in partnership in the name and style of "Dina Agencies". It is clear from the same that the deceased was paid Rs.1,500/- as remuneration. The petitioners also produced Ex.P42 distribution agreement between "Perfetti Van Melle India Private Limited" and "Dina Agencies" and the same also clearly shows that the deceased and Jaganathan were given dealership to sell the company products of ""Perfetti Van Melle India Private Limited". Ex.P44 series is also filed by the petitioners to show that the deceased was regularly paid the monthly installment of Rs.12,200/- towards hire purchase agreement in respect of his vehicles. Ex.P45 is the letter from the income tax Department which clearly shows that the deceased was an income tax assessee. Considering the above said factors, the Tribunal fixed the monthly income of the deceased as Rs.8,000/-. Even though the petitioners contends that the Tribunal ought to have fixed his monthly income much higher, considering the documents available on record, this Court find that the amount of Rs.8,000/- fixed by the Tribunal is appropriate and there is no need to interfere with the same.

16.1.The deceased being aged 32 years and was running Ice cream business, it will be appropriate to add 40% of the income towards future prospects. Thus, his monthly income will be Rs.8,000/- x 40% = Rs.3,200/- + Rs.8,000/- = Rs.11,200/-. Considering the number dependents were four persons, 1/3rd income is to be deducted towards personal expenses of the deceased. Thus, his contribution to the family will be Rs.11,200/- - 1/3rd amount of Rs.3,733/- = Rs.7,467/- per month. As the deceased was aged 32 years, the correct multiplier to be applied is 16. Thus, the loss of dependency is calculated as follows:-

Rs.7,467/- x 12 = Rs.89,604/- x 16 = Rs.14,33,664/-

16.2.Following the Apex Court decision reported in 2017 (2) TN MAG 609 (SC) NATIONAL INSURANCE CO. LTD., Vs. PRANAY SETHI AND OTHERS, towards loss of estate, loss of consortium and funeral expenses, this Court is inclined to modify the compensation as under:-

Loss of consortium	=	Rs. 40,000.00
Funeral Expenses	=	Rs. 15,000.00
Loss of Estate	=	Rs. 15,000.00
Total	=	Rs. 70,000.00

16.3.In para 14.3 of this judgment, analysing the Kerala High Court ruling and this Court ruling, the sum of Rs.50,000/- provided by the Tribunal towards loss of love and affection is confirmed. Further, the sum of Rs.5,000/- provided by the Tribunal under the head Transportation is also confirmed.

16.4.Accordingly, the compensation awarded by the Tribunal is modified as follows:-

Sl No	Heads	Amount awarded by the Tribunal	Awarded by this Court
1.	Pecuniary Loss of income	10,88,000.00	14,33,664.00
2.	Loss of Estate	-	15,000.00
3.	Loss of love and affection	50,000.00	50,000.00
4.	Funeral Expenses	5,000.00	15,000.00
5.	Transportation	5,000.00	5,000.00
6.	Loss of consortium	50,000.00	40,000.00
	Total	11,98,000.00	15,58,664.00

Accordingly, the sum of Rs.11,98,000/- awarded by the Tribunal is modified and the same is enhanced to Rs.15,58,664/- and the same is rounded of to Rs.15,58,700/-.

17.MCOP.No.841 of 2008 in CMA.No.2434 of 2013:

The petitioners in MCOP.No.841 of 2008, who are the wife, minor daughter and parents of the deceased contends that the deceased was aged 33 years and by carrying on textile business was earning a sum of Rs.20,000/- per month. The deceased was also carrying on agricultural work. The petitioners produced the driving licence of the deceased Moorthy as Ex.P39. The Tribunal, on the basis of Ex.P39 as well as Ex.P32 Postmortem certificate fixed the age of the deceased as 37 years. As such, the same is appropriate. The petitioners has produced income tax returns for the year 2002-2003 to 2005 to 2006 as Ex.P33 to Ex.P37. Admittedly, the petitioners have not examined any other persons to prove the nature of business and the income of the deceased. As such, the Tribunal, after considering the income tax returns filed by the petitioners, fixed the notional income of the deceased at Rs.8,000/-. There is no ground or necessity to modify the same. As such, the sum of Rs.8,000/- fixed by the

Tribunal as the monthly income of the deceased is confirmed.

17.1.The deceased being aged 37 years and self employed person, it will be appropriate to add 40% of the income towards future prospects. Thus, his monthly income will be Rs.8,000/- x 40% = Rs.3,200/- + Rs.8,000/- = Rs.11,200/-. Considering the number of dependents were four persons, 1/3rd income is to be deducted towards personal expenses of the deceased. Thus, his contribution to the family will be Rs.11,200/- - 1/3rd amount of Rs.3,733/- = Rs.7,467/- per month. As the deceased was aged 37 years, the correct multiplier to be applied is 15. Thus, the loss of dependency is calculated as follows:-

Rs.7,467/- x 12 = Rs.89,604/- x 15 = Rs.13,44,060/-

17.2.Following the Apex Court decision reported in 2017 (2) TN MAG 609 (SC) NATIONAL INSURANCE CO. LTD., Vs. PRANAY SETHI AND OTHERS, towards loss of estate, loss of consortium and funeral expenses, this Court is inclined to modify the compensation as under:-

Loss of consortium	=	Rs.	40,000.00
Funeral Expenses	=	Rs.	15,000.00
Loss of Estate	=	Rs.	15,000.00
Total	=	Rs.	70,000.00

17.3.In para 14.3 of this judgment, analysing the Kerala High Court ruling and this Court ruling, the sum of Rs.50,000/- provided by the Tribunal towards loss of love and affection is confirmed. Further, the sum of Rs.5,000/- provided by the Tribunal under the head Transportation is also confirmed.

17.4.Accordingly, the compensation awarded by the Tribunal is modified as follows:-

Sl No	Heads	Amount awarded by the Tribunal	Awarded by this Court
1.	Pecuniary Loss of income	10,24,000.00	13,44,060.00
2.	Loss of Estate	-	15,000.00
3.	Loss of love and affection	50,000.00	50,000.00
4.	Funeral Expenses	5,000.00	15,000.00
5.	Transportation	5,000.00	5,000.00
6.	Loss of consortium	50,000.00	40,000.00
	Total	11,34,000.00	14,69,060.00

Accordingly, the sum of Rs.11,34,000/- awarded by the Tribunal is modified and the same is enhanced to Rs.14,69,060/- and the same is rounded of to Rs.14,69,000/-.

18.C.M.A.No.2433 of 2013

In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. The amount of Rs.11,98,000/- awarded by the Tribunal as per order dated 05.02.2013, made in MCOP.No.794 of 2008 on the file of the Motor Accident Claims Tribunal/ (Principal District Court), Erode is enhanced to Rs.15,58,700/-. The Second respondent-Transport Corporation and 4th respondent/Insurance Company are directed to deposit the entire enhanced award amount of Rs.15,58,700/- at the ratio of 75 : 25 respectively with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the appellants 1 and 2/claimants 1 and 2 are entitled to get 40% each of the award amount and the third appellant/third claimant is entitled to get 20% of the award amount. The appellants 1 and 3 /claimants 1 and 3 are permitted to withdraw their respective shares along with accrued interest by filing a necessary applications before the Tribunal. Since the second appellant/2nd claimant being minor, his share amount shall be deposited in any one of the Nationalized Bank in a fixed deposit, till he attains majority. The first appellant/first petitioner is permitted to withdraw the accrued interest once in three months.

19.C.M.A.No.2434 of 2013:

In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. The amount of Rs.11,34,000/- awarded by the Tribunal as per order dated 05.02.2013, made in MCOP.No.841 of 2008 on the file of the Motor Accident Claims Tribunal/ (Principal District Court), Erode is enhanced to Rs.14,69,060/-. The Second respondent-Transport Corporation and 4th respondent/Insurance Company are directed to deposit the entire enhanced award amount of Rs.14,69,060/- at the ratio of 75 : 25 respectively with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the appellants 1 and 2/claimants 1 and 2 are entitled to get 40% each of the award amount and the appellants 3 and 4/claimants 3 and 4 are entitled to get 10% each of the award amount. The appellants 1, 3 and 4/claimants 1, 3 and 4 are permitted to withdraw their respective shares along with accrued interest by filing a necessary applications before the Tribunal. Since the second appellant/2nd claimant being minor, her share amount shall be deposited in any one of the Nationalized Bank in a fixed deposit, till she attains majority.

The first appellant/first petitioner is permitted to withdraw the accrued interest once in three months.

20.C.M.A.No.2435 of 2013

In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. The amount of Rs.11,98,000/- awarded by the Tribunal as per order dated 05.02.2013, made in MCOP.No.795 of 2008 on the file of the Motor Accident Claims Tribunal/ (Principal District Court), Erode is enhanced to Rs.15,58,700/-. The Second respondent-Transport Corporation and 4th respondent/Insurance Company are directed to deposit the entire enhanced award amount of Rs.15,58,700/- at the ratio of 75 : 25 respectively with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the appellants 1 and 2/claimants 1 and 2 are entitled to get 40% each of the award amount and the appellants 3 and 4/claimants 3 and 4 are entitled to get 10% each of the award amount. The appellants 1, 3 and 4/claimants 1, 3 and 4 are permitted to withdraw their respective shares along with accrued interest by filing a necessary applications before the Tribunal. Since the second appellant/2nd claimant being minor, her share amount shall be deposited in any one of the Nationalized Bank in a fixed deposit, till she attains majority. The first appellant/first petitioner is permitted to withdraw the accrued interest once in three months.

21.C.M.A.No.2436 of 2013

In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. The amount of Rs.11,98,000/- awarded by the Tribunal as per order dated 05.02.2013, made in MCOP.No.840 of 2008 on the file of the Motor Accident Claims Tribunal/ (Principal District Court), Erode is enhanced to Rs.15,58,700/-. The Second respondent-Transport Corporation and 4th respondent/Insurance Company are directed to deposit the entire enhanced award amount of Rs.15,58,700/- at the ratio of 75 : 25 respectively with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the appellants 1 and 2/claimants 1 and 2 are entitled to get 40% each of the award amount and the appellants 3 and 4/claimants 3 and 4 are entitled to get 10% each of the award amount. The appellants 1, 3 and 4/claimants 1, 3 and 4 are permitted to withdraw their respective shares along with accrued interest by filing a necessary applications before the Tribunal. Since the second appellant/2nd claimant being minor, her share amount shall be deposited in any one of the

Nationalized Bank in a fixed deposit, till she attains majority. The first appellant/first petitioner is permitted to withdraw the accrued interest once in three months.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rrg

To

1.The Principal District Court,
Motor Accident Claims Tribunal,
Erode.

2.The Section Officer,
V.R.Section,
High Court, Madras-104.

+4cc to Mr.M.Krishnamoorthy, Advocate sr.no.49529 to 59531 and 49533

+4cc to Mr.S.Kaithamalai kumaran, Advocate sr.no.49301 to 49304
+4cc to Mr.S.V.Vasanthakumar, Advocate sr.no.49454 to 49457

C.M.A.Nos.2433 to 2436 of 2013

nm(co)
nr 19/09/2018