BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CMA(MD)No.1157 of 2017

1)C.Sakunthala
2)M.Chellappan ... Appellants/Petitioners

vs.

1)P.Visalakshi
2)The Manager,
National Insurance Company Ltd.,
63, Rasi Plaza, West Pradhakshinam Road,
Karur.
3)The Managing Director,
North East Karnataka Road Transport Corporation(NEKRTC)
Central Office,
Sarige Sadana Gulbarga
Karnataka State. ... Respondents/ Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 14.06.2016 in MCOP.No.595 of 2010 on the file of Motor Accidents Claims Tribunal/Principal District Judge, Karur.

For Appellant	:	Mr.N.Sudhagar Nagaraj
For R1	:	Mr.M.Mithun
For R2	:	Mr.V.J.Kumaravel
R3	:	No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 14.06.2016 in MCOP.No.595 of 2010 on the file of Motor Accidents Claims Tribunal/Principal District Judge, Karur.

2.It is a case of fatal. After considering the oral and documentary evidence, the Tribunal awarded compensation of Rs.8,21,000/- with interest at 7.5% per annum. Not satisfied with the quantum of compensation, the claimants have filed this appeal seeking enhancement on the quantum.

3.Learned counsel for the appellants would submit that as per the recent judgment of the Hon'ble Supreme Court in *National Insurance Company Limited vs. Pranay Sethi and others (Special Leave Petition(Civil)No.25590 of 2014 dated 31.10.2017)*, 40% of the income should be added towards future prospects of the deceased. Further, as per the very same judgment, under conventional heads, namely, loss of estate and funeral expenses, Rs.15,000/-, and Rs.15,000/- should be awarded. However, in the instant case, the Tribunal has not awarded any sum under the head, loss of estate. Therefore, the learned counsel prayed for enhancement on the quantum.

4.Perusal of the records shows that the claimants are parents of the deceased. They claimed that at the time of accident, their son was aged 23 years and completed M.S(I.T) and had he been alive, he would have earned a sum of Rs.25,000/- per month. The claimants marked Ex.P7-transfer certificate of the deceased and Ex.P8-provisional certificate for M.S(I.T.). Considering the educational qualification of the deceased, the Tribunal fixed the income of the deceased at Rs.7,000/-. Since he was a bachelor at time of accident, the Tribunal deducted 50% of his income towards his personal expenses and applying '18' multiplier, the Tribunal awarded Rs.7,56,000/- towards loss of dependency.

5.Perusal of the impugned judgment shows that the Tribunal has failed to award amount for future prospects. The deceased has completed M.S(I.T.) and died at the age of 23 years. Therefore, as per the judgment in Pranay Sethi's case, 40% of the income is added towards future prospects. After doing so, the income of the deceased comes to Rs.9800/-(Rs.7000 + Rs.2800). After deducting 50% towards the personal expenses and applying '18' multiplier, the loss of dependency works out to Rs.10,58,400/-(Rs.4900x12x18). Further, a sum of Rs.15,000/- is hereby awarded towards loss of estate. The compensation awarded by the Tribunal towards funeral expenses and loss of love and affection is sustained. The rate of interest at 7.5% also remains intact. Accordingly, the compensation is modified as hereunder:-

Loss of dependency	=	Rs.10,58,400/-
Loss of love and affection	=	Rs. 50,000/-
Loss of estate	=	Rs. 15,000/-
Funeral expenses	=	Rs. 15,000/-
Total	=	Rs.11,38,400/-
(Less)Amount awarded by the Tribunal	=	Rs. 8,21,000/-
Enhanced compensation	=	Rs. 3,17,400/-

6.The appellants/claimants are entitled to enhanced compensation of Rs.3,17,400/- in addition to Rs.8,21,000/- awarded by the Tribunal. The respondents jointly and severally are directed to deposit the modified compensation of Rs.11,38,400/- with interest at 7.5% per annum from the date of claim petition till the date of deposit, less the amount already deposited, if any, to the credit of the claim petition within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants/claimants are permitted to withdraw their shares in the ratio apportioned by the Tribunal.

Accordingly, this Civil Miscellaneous Appeal is allowed in part. No costs.

Sd/-
Assistant Registrar(AD-II)

/True copy/

Sub Assistant Registrar

bala

To

The Principal District Judge,
Motor Accidents Claims Tribunal,
Karur.

Copy to:
The Section Officer, (2 Copies)
VR Section,
Madurai Bench Of Madras High Court,
Madurai

+1 cc to MR.N.SUDHAGAR NAGARAJ, Advocate SR.No.62532
+1 cc to MR.K.BALASUBRAMANI, Advocate SR.No.62224
+1 cc to Mr.K.Gokul, Advocate SR.No.62674

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SMA/RR/SAR-1/01.06.2018:3P/7c