BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.192 of 2014

1.R.Malar
2.R.Sugan Pandiyan
3.R.Suganniya Devi
4.Minor R.Seenu
5.P.Veerammal
6.P.Paulsamy Thevar ... Appellants
[Minor 4th appellant rep. through
his mother and next friend - 1st appellant herein]

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Bye-Pass Road, Madurai. ... Respondent

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree made in MCOP No.1403 of 2011 on the file of Motor Accident Claims Tribunal (5th Additional District Judge), Madurai, dated 23.09.2013.

For Appellants : Mr.K.Kumaravel
For Respondent : Mr.K.Sudalaiyandi

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JUDGMENT

Assailing over the judgment and decree passed by the Motor Accident Claims Tribunal, (5th Additional District Judge), Madurai, in M.C.O.P.No.1403 of 2011 dated 23.09.2013, the present civil miscellaneous appeal has been filed.

2. Heard the learned Counsel appearing on both sides and perused the records carefully.

3. It is a case of fatal and the appellants/claimants, being dissatisfied with the compensation of Rs.5,51,500/- awarded by the tribunal, is before this Court, seeking enhancement. The mode of accident as well as the liability are not disputed. According to the appellants/claimants, because of the accident in question, they had lost the sole bread winner of their family. However, the tribunal has awarded a meagre sum and therefore, they pray for enhancement.

4. On a perusal of records, it is seen that the income of the deceased was arrived at Rs.4,500/- per month, which, in my

considered opinion, is reasonable. However, no compensation was awarded towards future prospectus. The Supreme Court, in its latest verdict, in the case of *National Insurance Company Ltd., v. Pranay Sethi and others, decided on 31.10.2017*, has held that 25% towards future prospectus is reasonable for persons in the age group 40-50. Admittedly, the age of the deceased at the time of the accident was 45 years and therefore, by applying the above principle, future prospectus is fixed at 25%.

5. It is also seen that the tribunal has deducted 1/3 towards personal expenses, however, this Court is of the view that the tribunal, taking into consideration the number of dependents, ought to have deducted 1/4 towards personal expenses. It is also seen that the tribunal has taken the multiplier as 15, however, considering the age of the deceased and by applying the principle laid down in *Sarala Verma v. Delhi Transport Corporation,* the appropriate multiplier should be 14. Hence, the award passed by the tribunal under the head dependency needs interference and the same reads as under:

- ((Income of the deceased + future prospects) – personal expenses) is ((Rs.4,500/- + Rs.1,125/- (25%)) - Rs.1,406/- (1/4)) amounts to Rs.4,219/-.
- By applying the multiplier method, it would be (Rs.4,219/- * 12 * 14) amounting to Rs.7,08,792/-.
- Therefore, the loss towards dependency is enhanced and the same is fixed at Rs.7,08,792/-, instead of Rs.5,40,000/-.

5. Other than dependency, the tribunal has awarded compensation on four heads, viz., Rs.2,000/- for funeral expenses; Rs.5,000/- for loss of consortium; Rs.2,500/- for loss of estate; and Rs.2,000/- for transportation, totalling a sum of Rs.11,500/-. These are all nothing but compensation on conventional heads. The Hon'ble Supreme Court, in the case of *National Insurance Company Ltd., v. Pranay Sethi and others, decided on 31.10.2017* (cited supra), has categorically held that the loss towards conventional heads should be Rs.70,000/- and following the same, this Court is inclined to award a sum of Rs.70,000/- towards conventional heads. Accordingly, a sum of Rs.70,000/- is ordered towards conventional heads and all the heads, other than dependency, stands deleted.

6. In result, this civil miscellaneous appeal is allowed and the modified award reads thus:

S.No	Head	Awarded by the tribunal	Awarded by this Court	Difference
1	Loss of dependency	Rs.5,40,000/-	Rs.7,08,792/-	Rs.1,68,792/-
2	Loss towards Conventional heads	Rs.11,500/-	Rs.70,000/-	Rs.58,500/-

Total	Rs.5,51,500/-	Rs.7,78,792/-	Rs.2,27,292/-

- The respondent is directed to deposit the entire sum of Rs.7,78,792/- [Rupees Seven Lakh Seventy Eight Thousand Seven Hundred and Ninety Two only] towards compensation with interest @ 7.5%, less the sum already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment.
- On such deposit, the appellants/claimants are permitted to withdraw their respective shares with accrued interests and costs as apportioned by the Tribunal, without filing any formal application before the Tribunal. The Tribunal is directed to deposit the shares of the minor child in a nationalized bank until he attains majority. The first appellant herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three months.
- There shall be no order as to costs.
- The appellants/claimants are directed to pay the necessary additional Court fee, if any, within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

The 5th Additional District Judge,
Motor Accident Claims Tribunal,
Madurai.

Copy to:
The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.**(2 COPIES)**

+1cc to Mr.K.KUMARAVEL, Advocate, SR.No. 60760
+1cc to Mr.K.SUDALAIYANDI, Advocate, SR.No. 60672

C.M.A(MD).No.192 of 2014
11.04.2018

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KK/KKR/SAR-1/23.05.2018/3P-6C