



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CMA(MD)No.1891 of 2013

1.Suveriya
2.Ramjan Beeve
3.Abbass
4.Muthammadhu Rabeek
5.Maztha Banu
6.Minor Pathima Risvana
(Minor appellant is represented through her
mother and natural guardian 1st appellant herein)
... Appellants/Petitioners
vs.

1.Tamil Nadu State Transport Corporation Ltd.,
Through its General Manager,
Vannarapettai,
Tirunelveli.
2.Balakrishnan
3.The Oriental Insurance Company Ltd.,
represented by its Branch Manager,
S.K.G. Samy Complex,
1st Floor, No.82, North Ratha Street,
Thenkasi.
... Respondents/Respondents

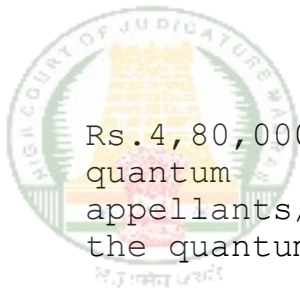
Appeal filed under Section 173 of the Motor Vehicles Act, 1988,
against the Judgment and Decree made in MCOP No.433 of 2012 on the
file of the Motor Accident Claims Tribunal(3rd Additional District
Sessions Judge) Tirunelveli, dated 28.02.2013.

For Appellants	:	Mr.T.Selvakumaran
For R1	:	Mr.P.Prabhakaran
For R2	:	No appearance
For R3	:	Mr.K.Bhaskaran

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the
Judgment and Decree made in MCOP No.433 of 2012 on the file of the
Motor Accident Claims Tribunal(3rd Additional District Sessions
Judge) Tirunelveli, dated 28.02.2013.

2.It is a case of fatal accident. Wife and children of the
deceased filed a claim petition before the Tribunal. After
considering the oral and documentary evidence, the Tribunal awarded



Rs.4,80,000/- with interest at 8% per annum. Not satisfied with the quantum of compensation awarded by the Tribunal, the appellants/claimants have filed this appeal seeking enhancement on the quantum.

3. Learned counsel for the appellants would submit that though the appellants produced evidence to show that the deceased earned Rs.5,010/- per month by working as a Labour in a Beedi Company at Veeravanallur, the Tribunal disbelieving the said evidence, fixed the income of the deceased as Rs.4,500/- and awarded compensation of Rs.4,00,000/- towards loss of income and loss of estate. The learned counsel would further submit that as per the recent judgment of the Hon'ble Supreme Court in National Insurance Company Limited vs. Pranay Sethi and others reported in 2017 (6) CTC 493, 10% of the income should be added towards future prospects.

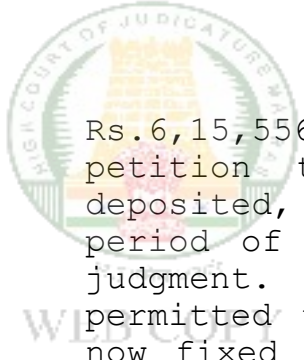
4. On perusal of the records, it is seen that the appellants/claimants claimed that the deceased was employed in a Beedi Company and getting salary of Rs.5,010/- per month. However, the Tribunal fixed the income as Rs.4,500/-. The evidence produced before the Tribunal relating to the income of the deceased was not disputed. Therefore, there is no reason to reduce the salary of the deceased at Rs.5,010/- per month. Accordingly, the monthly income is fixed as Rs.5,010/- and after adding 10% towards future prospects as per the judgment in Pranay Sethi's case, the monthly income is determined as Rs.5,511/-. After deducting 1/4th towards the personal expenses and applying multiplier '11' according to the age of the deceased namely, 54, the loss of income works out to Rs.5,45,556/-. As per the judgment in Pranay Sethi's case, under conventional heads, namely, loss of estate, loss of consortium and funeral expenses, Rs.15,000/-, Rs.40,000/- and Rs.15,000/- alone should be awarded. Therefore, a sum of Rs.70,000/- is granted under the conventional heads. Consequently, the award of the Tribunal at Rs.70,000/- under the head love and affection & loss of consortium and Rs.10,000/- under the head funeral expenses are set aside. The total compensation is modified as hereunder:-

Loss of income	=	Rs.5,45,556/-
Loss of estate	=	Rs. 15,000/-
Loss of consortium	=	Rs. 40,000/-
Funeral expenses	=	Rs. 15,000/-

Total	=	Rs.6,15,556/-
(Less) Amount awarded by the Tribunal	=	Rs.4,80,000/-

Enhanced compensation	=	Rs.1,35,556/-

5. Accordingly, the appellants/claimants are entitled to enhanced compensation of Rs.1,35,556/-. The 3rd respondent insurance company is directed to deposit the modified compensation of



Rs.6,15,556/- with interest at 8% per annum from the date of 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 1 to 5/claimants are permitted to withdraw theirs shares in the modified compensation now fixed by this Court in the ratio apportioned by the Tribunal. The share of the 6th appellant/minor shall be deposited in a Nationalised Bank till she attains majority and the interest on such minor's deposit is permitted to be withdrawn by the 1st appellant/mother of the minor once in three months directly from the bank.

The Civil Miscellaneous Appeal is accordingly allowed in part. No costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The III Additional District & Sessions Judge,
Motor Accident Claims Tribunal
Tirunelveli.

COPY TO:

The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

+1cc to M/S.T.Selvakumaran, Advocate SR.No. 60763
+1cc to M/S.P.Prabhakaran, Advocate SR.No. 60425
+1cc to M/S.K.Bhaskaran, Advocate SR.No. 60454

CMA(MD)No.1891 of 2013
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JM/SKN RSK/SAR 2/31.07.2018/3P/7C