IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE. R.HEMALATHA

CMA No.2299 of 2006

The Managing Director,
Karnataka State Transport Corporation Limited,
having its Branch office at
K.R.Nagar, Mysore. ... Appellant/2nd Respondent

Vs.

1. P.Selvi
2. Minor Poorani ... 1st and 2nd Respondent/Petitioners

3. Sidda Naicker ... 3rd Respondent / 1st Respondent

4. Marappa Gounder
5. Marayaal ... 4 & 5th Respondents/3 & 4th Respondent

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the orders dated 08.04.2004 passed in MCOP No.169 of 2003 by the I Additional District Judge/ Motor Accident Claims Tribunal, Coimbatore.

For Appellants : Mr.S.V.Vasanthakumar
For Respondents: Mr.Ma.P.Thangavel (for R1 and R2)
Mr.A.S.Vijayaraghavan (for R4,R5)

No appearance for R3

JUDGMENT

The Managing Director, Karnataka State Transport Corporation Limited, K.R.Nagar, Mysore, the 2nd respondent in MCOP No.169/2003 on the file of the I Additional District Judge/ Motor Accident Claims Tribunal, Coimbatore has filed the appeal under Section 173 of the Motor Vehicles Act.

2. The respondents 1, 2, 4 and 5 /claimants filed the above said claim petition under Section 166 of the Motor Vehicles Act seeking compensation of Rs.10,00,000/- for the death of one Palanisamy, husband of the first respondent, father of the 2nd respondent and son of the respondents 4 and 5, in a road accident that took place on 16.08.2002. The case of the claimants is that on 16.08.2002, when the deceased

Palanisamy was riding his two wheeler bearing registration No.TN-36-Z-2092 on Punjai Puliampatty - Sathy Main Road, a speeding bus bearing registration No.KA-09-F-2828 belonging to the Karnataka State Transport Corporation, hit the motorcycle from behind, as a result of which, he fell down from the motorcycle and sustained injuries. The further contention of the claimants is that the deceased was admitted as an inpatient in Government Hospital, Sathiyamangalam and thereafter he was referred to CMC Hospital, Coimbatore and later he was admitted in K.G.Hospital, Coimbatore for better treatment. However, he succumbed to injuries on 02.09.2002. According to the claimants, the rash and negligent driving of the driver of the bus belonging to the Karnataka State Transport Corporation was the cause of the accident and therefore, they are liable to pay compensation.

3. The learned I Additional District Judge/ Motor Accident Claims Tribunal, Coimbatore, after analysing the evidence on record, awarded a compensation of Rs.7,80,000/- to the claimants together with interest at the rate of 9% per annum from the date of claim petition till the date of deposit. The Tribunal further held that the rash and negligent driving of the driver of the bus belonging to the Karnataka State Transport Corporation was the cause of accident. Aggrieved over the orders passed by the Tribunal, the Karnataka State Transport Corporation has filed the present appeal.

4. Mr.S.V.Vasanthakumar, learned counsel appearing for the appellant contended that though the rider of the motorcycle was rash and negligent in riding his vehicle, the Tribunal had fixed the negligence on the part of the driver of the bus and therefore, the orders passed by the Tribunal is liable to be set aside.

5. Per contra, Mr.Ma.P.Thangavel, learned counsel appearing for the respondents 1 and 2 contended that the First Information Report was registered against the driver of the bus belonging to the Karnataka State Transport Corporation and that one Nagaraj, who was an eyewitness to the occurrence was examined as PW2 on the side of the claimants and he has clearly deposed that the driver of the bus (3rd respondent herein) was rash and negligent in driving the bus. He further contended that the Tribunal after analysing the oral and documentary evidences adduced on both sides, had clearly held that the driver of the bus belonging to the Karnataka State Transport Corporation was the wrong doer and therefore, the orders passed by the Tribunal fixing negligence on the part of the driver of the said bus is perfectly in order. He also contended that though the claimants did not file any appeal seeking enhancement of compensation awarded by the Tribunal, the same is liable to be enhanced since the award passed by the Tribunal cannot be said to be a just compensation.

6. He also drew the attention of this court to the orders passed by the Tribunal and contended that the Tribunal had deducted 50% of the income of the deceased towards his personal expenses, especially when the deceased was not a bachelor on the date of the accident and 4 persons were depending on the income of the deceased. He further contended that no amount was added towards future prospects of the deceased, especially, when the deceased was aged 35 years on the date of accident.

7. He also relied on the decision in Bajaj Allianz General Insurance Co. Ltd., Bangalore Vs. Konappan and another reported in 2016(1) TN MAC 184 (Division Bench), wherein, in paragraph No.16, it has been held thus.

> On the aspect of suo motu enhancement, it is useful to consider few decisions.
>
> (i) In National Insurance Co. Ltd., V. M.Jayagandhi, 2008(1) TN MAC 177, on the question as whether in the absence of any Cross-Objection, the High Court could suo motu enhance the compensation, by exercising power under Order 41, Rule 33, CPC, this court, at Paragraphs 37 & 38 held as follows:
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> 37. The question arising for consideration is whether in the absence of any Cross Objection, the Appellate Court could suo motu enhance the compensation. The Appellate Court exercising power under Order 41, Rule 33, CPC could enhance the quantum of compensation even without Cross-Objection. The Courts and Tribunals have a duty to weigh various factors and quantify the amount of compensation which should be just. Reference could be made to the decision of the Supreme Court in Sheikhupura Transport Co. Ltd. v. Northern India Transport Insurance Co.† , 1971 ACJ 206 (SC), wherein it is held that pecuniary loss to the aggrieved party would depend upon data which cannot be ascertained accurately, but must necessarily be an estimate or even partly a conjecture. The general principle is that the pecuniary loss can be ascertained only by balancing, on the one hand, the loss to the Claimants of future pecuniary benefits and on the other any pecuniary advantage which from what-ever sources come to them by reason of the death, i.e. the balance of loss and gain to a dependent by the death must be ascertained. The determination of the question of compensation depends on several imponderables. In the assessment of those imponderables, there is likely to be a margin of error. Broadly speaking, in the case of death, the basis of compensation is loss of pecuniary benefits to the dependents of the deceased which includes pecuniary loss, expenses, etc. and loss

to estate. Object is to mitigate hardship that has been caused to the legal representatives due to sudden demise of the deceased in the accident. Compensation awarded should not be inadequate and should neither be un-reasonable, excessive nor deficient.

38. Of course, the Claimants who are widow, minor daughter and mother have not filed any Cross-Objection. Even without a Cross-Objection, questioning the quantum, the Court could suo motu enhance compensation under Or. 41, R. 33, CPC. In this context, reference could be made to 1999 ACJ 977 [Karnataka] wherein it has been held as follows:

(6) I am in general agreement with the basic proposition of law that has been canvassed by the appellant's learned advocate when he points out that it is a well settled principle that a party who suffers an order or a decree and does not Appeal against it or assail it would normally not be permitted at the hearing of the Appeal to try and take advantage of the situation by asking for enhancement. The issue is not that but really as to whether this situation prescribes an absolute and total bar to the Court granting a relief if in the interest of justice such a relief is an absolute must. One has to view the situation from a rather practical point of view the first of them being with regard to the very poor quality of legal assistance that is usually available in and around the M.A.C.T. and thereafter, the second aspect of the matter being that the status of the parties and their general condition themselves may be such that they are unable to agitate the matter further and the third aspect of the matter which is relevant having regard to the present case, is the possibility of certain further tragic occurrences such as deaths that may have intervened, all of which may contribute to a situation wherein the Court finds that no Appeal or Cross-Objections have been filed. The essence of doing justice requires that compensation when awarded has got to be reasonable and fair and it has also got to be adequate having regard to the totality of the circumstances. The hearing of the Appeal involves a total review of the case and the Appeal is virtually an extension of the proceedings before the lower Court. The law is well settled with regard to one interesting aspect of the matter, namely, that the Courts do come across a few instances where instead of over-pitching the case before the Trial Court, a very modest amount is claimed and the Tribunals in these circumstances have been wrongly limiting the

relief to the amount that has been claimed on the ground that even though the party is entitled to something higher, what was asked for is a lower figure. This Court had occasion to correct these orders and to lay down that the Tribunal is required to pass an order quantifying the compensation correctly irrespective of what has been claimed on the basis of the principle that it is not the amount that is claimed in that matter, insofar as if the Court has to the power to award a lesser amount, that it is equally equipped with the power to award a higher amount. It is that principle which applies with equal force to the Appeal Court and though I do not dispute that a Court would normally not permit a party to ask for enhancement unless an Appeal or Cross-Objections have been filed but there could be a very small category of cases in which the Court would make an exception, the reason being that the essence of doing justice requires that a Court will not refuse a relief only because of a technical or a procedural bar. I need to amplify here that if the technicalities are upheld, the result would be doing injustice insofar as the party will be left with a compensation lesser than what a fair evaluation entitles the party to. Again, I do not on the basis of the law as enunciated by the Courts in the decisions set out by me above, subscribe to the view that there exists any bar in the way of this Court exercising such powers. The powers do exist under Order 41, Rule 33, Civil Procedure Code and more importantly, such powers can certainly be exercised under section 151, Civil Procedure Code in the interest of justice. Applying the above decision, in Tamil Nadu State Transport Corporation v. Vasantha and Ors. , 2006 (3) ACJ 1917: 2006 (1) TN MAC 336 Justice Arumuga perumal Adithyan has enhanced compensation, exercising power under Or. 41, R. 33, CPC and Section 151, CPC.

(ii) In TAMIL NADU STATE TRANSPORT CORPORATION VS. SAROJA AND ORS., [2008 (1) TNMAC 352] this Court has considered the said issue and that the said point has been answered, as follows:
6. On point:
The learned counsel for the respondents/claimants placing reliance on Order XLI, Rule 33 of C.P.C. and the various decisions emerged thereunder would pray that the compensation might be enhanced even though no cross-objection has been filed by the claimants, whereas the learned counsel for the appellant - Transport Corporation would cite the decision of the Hon'ble Apex Court in Oriental

Insurance Co. Ltd. v. R. Swaminathan & Ors. , 2006 (2) ACC 701 (SC), and develop his arguments to the effect that unless there is a cross objection, the question of enhancing the compensation would not arise. Hence, it is just and necessary to refer to the decision of the Hon'ble Apex Court in Oriental Insurance Co. Ltd. v. R. Swaminathan & Ors. , 2006 (2)ACC 701 (SC). An excerpt from it would run thus:

" Apparently the first respondent claimant was satisfied with the Tribunal's Award as he did not file any Appeal there against to the High Court. Nonetheless, being aggrieved by the Single Judge's judgment, the claimant filed a Letters Patent Appeal before the Division Bench of the High Court. This Appeal was allowed and by the impugned judgment the High Court has awarded total compensation amounting to Rs.7,44,000/- under different heads with a direction for payment of interest at 18% from the date of Petition. The appellant-Insurance Company is aggrieved thereby and is in Appeal before us.

The issue that arises in this case is, whether the Division Bench of the High Court was justified in in-creasing the compensation amount beyond the amount awarded by the Tribunal despite the fact that the Award of the Tribunal was not at all challenged by the claimant. The only reason given by the Division Bench of the High Court for doing so is:

" In this connection, we may observe that we are aware of the fact that we are enhancing the compensation even though the injured has not claimed it. But, the question is covered by catena of decisions justifying enhancement of compensation even if cases where the injured has not preferred an Appeal, provided the circumstances of the case warrants the same."

To say the least, this was a very facial way of interfering with the award when no interference was called for. We called upon the learned Counsel on both sides to show us at least one case (out of the catena of judgments referred to in the impugned judgment) in support of this proposition. Learned counsel frankly confessed that there was none. On the other hand, the learned Counsel for the appellant drew our attention the judgment of this Court in Banarsi v. Ram Phal , 2003 (2) SLT 258: 2003 (9) SCC 606, which supports the proposition that in an Appeal filed by the defendant laying challenge to the grant a smaller relief, the plaintiff as a respondent cannot seek a higher relief if he had not filed an Appeal on his own or had not taken any cross-objection. In the present Appeal it would appear that the claimant neither Appealed against the award of compensation passed by the Tribunal, nor filed any cross-objection in the First Appeal filed by the Insurance Company. Thus, we are satisfied that the Division Bench of the High Court wholly erred in increasing the compensation amount beyond the amount awarded by the Tribunal in the Appeal filed by the Insurance Company."

7. A mere perusal of the excerpt from the said decision would clearly indicate that the Hon'ble Apex Court in that decision has not laid down as a universal rule of interpretation of Order 41, Rule 33 of C.P.C. Taking into consideration, the method and manner in which the Division Bench of this Court in the Letters Patent Appeal, without citing adequate reasons and precedents, enhanced the compensation amount to an extent of Rs. 7,44,000/- with 18% interest from that of Rs. 3,00,000/- awarded by the Single Bench of the same Court, the Hon'ble Apex Court found fault with it.

8. Furthermore, the above excerpt also would reveal that without even relying upon any precedent, the Division Bench of this Court, simply enhanced the compensation and that too to the extent of double that of what the Single Judge of this Court ordered. It is also clear that when the Hon'ble Apex Court wanted a precedent in that regard, the learned counsel for the appellant therein cited only the decision of the Hon'ble Apex Court in Banarsi v. Ram Phal , 2003 (2) SLT 258: 2003 (9) SCC 606. As such, in the peculiar facts and circumstances of that case, the Hon'ble Apex Court felt that the power under Order 41, Rule 33 of C.P.C. invoked by the High Court and that too in a case where such an enhancement was not at all warranted, looked askance at it. It is therefore explicit that the Hon'ble Apex Court in the cited decision has not laid down the law that even in a fit case, the High Court should not invoke Order 41, Rule 33 of C.P.C. in the absence of filing cross Appeal. Furthermore under Order 41, Rule 33, there are earlier decisions of the Hon'ble Apex Court, which could be cited as under:

(i) Municipal Board, Mount Abu v. Hari Lal , 1988 ACJ 281.

(ii) Dangir v. Madan Mohna , AIR 1988 SC. 54.

(iii) M.D. Pallavan Transport Corporation Ltd., v. Kalavathi, 1998 (1) ACJ 151.

(iv) State of Punjab v. Bakshish Singh , 1998 (8) S.C.C. 222.

9. The perusal of the aforesaid Judgments of the Hon'ble Apex Court would clearly highlight that

without filing cross Appeal, the respondents in the Appeal could pray for reliefs and that the High Court under Order 41, Rule 33 could grant such reliefs also. This Court in several cases adhering to the aforesaid decisions of the Hon'ble Apex Court held that under Order 41, Rule 33 of C.P.C., this Court could enhance the compensation in appropriate cases. An excerpt from the decision of this Court in Managing Director, Thanthai Periyar Transport Corp., Villupuram v. Sundari Ammal and four Others reported in 1999 (2) CTC 560 would run thus:

" Unfortunately, in the instant case, there is no cross-objection. Therefore, it would be essential, in this context, to consider whether this Court has got powers to enhance the amount of compensation, in the event of coming to the conclusion that the award was on the lower side, even though there is no cross-objection by the claimants."

In Dangir v. Madan Mohan , AIR 1988 S.C. 54 and M.D., Pallavan Transport Corporation Ltd., v. Kalavathi , 1998 (1) A.C.J 151, it is held that this Court has got power to enhance the compensation, even though the claimants had not filed any cross-objection against the award seeking for higher compensation, if this Court finds that the amount awarded by the Tribunal is not just and adequate.

As pointed out by the Apex Court in State of Punjab v. Bakshish Singh , 1998 (8) S.C.C. 222, the reading of the provision would make it clear that the Appellate Court has got wide power to do complete justice between the parties and which enables this Court to pass such decree or order as ought to have been passed or as the nature of the case may require notwithstanding that the party in whose favour the power is sought to be exercised has not filed any Appeal or cross-objection."

The Apex Court in Dhangir v. Madan Mohan, A.I.R. 1988 S.C. 54, be referring Order 41, Rule 33, would make the following observation:

" The Appellate Court could exercise the power under Rule 33 even if the Appeal is only against a part of the decree of the lower Court. The Appellate Court could exercise that power in favour of all or any of the respondents although such respondent may not have filed any Appeal or objection. The sweep of the power under Rule 33 is wide enough to determine any question not only between the appellant and respondent, but also between respondent and co-respondents. The Appellate Court could pass any decree or order which ought to have been passed in the circumstances of the case. The words ?as the case may be require? used in Rule 33, Order 41 have been put in wide terms to enable the Appellate Court to pass any order or decree to meet the ends of Justice. What then should be the constraint? We do not find many, we are giving any liberal interpretation. The rule itself is liberal enough. the only constraints that we could see may be these: That the parties before the lower Court should be there before the Appellate Court. The question raised must properly arise out of judgment of the lower Court. If these two requirements are there, the Appellate Court could consider any objection against any part of the judgment or decree of the lower Court. It is true that the power of the Appellate Court under S. 33 is discretionary. But, it is a proper exercise of judicial discretion to determine all questions urged in order to render complete justice between the parties. The Court should not refuse to exercise that discretion on mere technicalities.

10. And then the Division Bench of this Court in the decision in The Managing Director, Annai Sathya Transport Corporation Ltd., Dharmapuri v. Janardhanam and 7 others, 2000 (2) CTC 272 placing reliance on the decision of the Hon'ble Apex Court held a similar view that without cross Appeal Order 41, Rule 33 of C.P.C. could be invoked in appropriate cases. An excerpt from it would run thus:

" At this stage, learned counsel appearing for the respondent/claimants would submit that the Tribunal has awarded interest only from the date of the Judgment and not from the date of the petition. The learned counsel for the respondents/claimants would submit that even though no Appeal has been filed by the respondents/claimants or no cross-objections have been filed by them, this Court has discretionary power by virtue of Order 41, Rule 33 of Code of Civil Procedure and also in view of the rulings of the Supreme Court in Dhangir v. Madan Mohan , AIR 1988 SC 54 to grant the proper relief. Of course, the Apex Court has pointed out in clear and categorical terms and the power conferred under Order 41, Rule 33 on the Appellate Court is discre-tionary, and then it must be used in proper case using the judicial discretion to render justice. The Apex Court in United India Insurance Co., Ltd., v. Narendra Pandu-rang Kadam and others , 1995 (1) SCC 320 has clearly laid down that the rate of interest must be awarded from the date of the petition and not from the date of the Judgment."

11. Over and above that the decision of the Hon'ble Three Judges Bench of the Hon'ble Apex Court, in Nagappa v. Gurudayal Singh and others , 2003 ACJ 12: 2004 (2) TN MAC 398 (SC), could be cited here. An excerpt from it would run thus:
" Firstly, under the provisions of Motor Vehicles Act, 1988 (hereinafter referred to as ?the M.V. Act?), there is no restriction that compensation could be awarded only up to the amount claimed by the claimant. In an appropriate case where from the evidence brought on record if Tribunal/Court considers that claimant is entitled to get more compensation than claimed, the Tribunal may pass such award. Only embargo is - it should be 'just' compensation, that is to say, it should be neither arbitrary, fanciful nor unjustifiable from the evidence. This would be clear by reference to the relevant provisions of the M.V. Act. Section 166 provides that an application for compensation arising out of an accident involving the death of, or bodily injury to, persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both, could be made (a) by the person who has sustained the injury; or (b) by the owner of the property; or (c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or (d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be. Under the proviso to subsection (1), all the legal representatives of the deceased who have not joined as the claimants are to be impleaded as respondents to the application for compensation. Other important part of the said Section is subsection (4) which provides that the Claims Tribunal shall treat any report of accidents forwarded to it under subsection (6) of section 158 as an application for compensation under this Act?. Hence, Claims Tribunal in appropriate case can treat the report forwarded to it as an application for compensation even though no such claim is made or no specified amount is claimed.

(iii) In TAMIL NADU STATE TRANSPORT CORPORATION VS. POTHUMPONNU [CMA(MD)NO.714 OF 2009, DATED 05.08.2009] this Court, held as follows:
" 17. Notice can be issued to the opposite parties/respondents only in case where their rights are going to be affected be way of variation/reduction. In this case, the claimants

> are going to be benefited. Hence, no notice is necessary in the appeal. When the Tribunal commits a mistake that too a material mistake, this Court cannot close its eyes and decide the matter mechanically. When the mistake is noticed by this Court, this Court has got power to do away with it, even while dismissing the appeal at the admission stage itself. The presence of the respondent is not a must. When there is a case for admission, the matter can be admitted and notice can be ordered. When there is no case made out for admission, the appeal deserved to be dismissed. While dismissing, the material irregularity committed by the Tribunal can be set right by awarding suitable amounts to the respondents without notice to them. The presence of the claimants or absence does not make any difference. Even if they are present and they do not bring it to the notice of this Court about the irregularity, this Court can always remedy the same suo motu under Order XLI Rule 33 of the Code of Civil Procedure and Section 173 of the Motor Vehicles Act and invoking Articles 227 of the Constitution of India. Moreover, Sections 163 and 166 are beneficial provisions of the Motor Vehicles Act aimed at consoling and compensating the victims of the accident. This Court's approach should be humane in nature not whittled down by technicalities. The powers of the Court are wide enough to do complete justice."

He therefore prayed that the Award passed by the Tribunal is liable to be enhanced.

8. Mr.S.V.Vasanthakumar, learned counsel appearing for the appellant contended that the Tribunal had awarded a just compensation of Rs.7,80,000/-, after considering the well laid principles of law, which were in vogue at the time of passing of the orders and therefore, the same need not be disturbed at this stage.

9. As far as the negligence aspect is concerned, it is clear from the records that the First Information Report was registered against the driver of the bus. The Inspector of Police, Sathiyamangalam Police Station, after full investigation had laid a final report (Ex.P2) before the Judicial Magistrate, Sathiyamangalam against the driver of the bus belonging to the Karnataka State Transport Corporation for the offences punishable under Sections 279, 304(A) of the Indian Penal Code. Mr.Nagaraj (PW2), who was the eyewitness to the occurrence had clearly deposed that the driver of the bus drove the bus rashly and negligently and hit the motorcycle, which was ridden by the deceased Palanisamy.

10. Moreover, the driver of the bus belonging to the Karnataka State Transport Corporation, who was examined as RW1 had deposed that in order to avoid the head on collision with the lorry, which was coming in the opposite direction, he swerved his vehicle on the right hand side and hit the motorcycle which the deceased Palanisamy was riding causing his death. Therefore, Ex.P1, Ex.P2 and the evidences of PW2 and Rw2 would clearly go to show that the driver of the bus was rash and negligent and in the circumstances, the negligence fixed on the part of the driver of the bus by the Tribunal is upheld.

11. As regards the quantum of compensation is concerned, the Tribunal had awarded a sum of Rs.7,80,000/- as compensation to the claimants with interest at the rate of 9% per annum. In the claim petition, it is contended that the deceased was a flower merchant on the date of the accident, earning a sum of Rs.10,000/- per month. The identity card (Ex.P13) and the licence (Ex.P14) were adduced to prove that the deceased was a flower vendor. The Tribunal had fixed the monthly income of the deceased as Rs.5,000/- per month. Since there is no proof of income, the Tribunal was right in fixing the notional income of the deceased as Rs.5,000/- per month. However, the Tribunal has failed to add future prospects and as per the decision of the Constitution Bench of the Hon'ble Supreme Court of India in National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 (2) TN MAC 609 (SC), 40% should be added towards future prospects. Since there are 4 persons depending on the income of the deceased, 1/4 is deducted towards personal expenses of the deceased. The deceased was aged 35 years on the date of the accident and therefore, proper multiplier to be adopted in the instant case is ' 16 ', as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. Thus, loss of dependency is calculated as follows.

Notional income -	- Rs.5000
Add: 40% future prospects (5000+2000)	- Rs.7,000
Deduction 1/4 (7000-1750)	- Rs.5,250
Proper multiplier	- 16
Loss of dependency (5250 x 12 x 16)	- Rs.10,08,000

The claimants had filed medical bills to the tune of Rs.2,50,000/- and thus, the said amount should be awarded to the claimants. Apart from this amount, the claimants are also entitled to Rs.15,000/- Rs.15,000/- and Rs.40,000/- towards "loss of estate", "funeral expenses" and "loss of consortium to the first claimant" respectively, as per the decision in National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 (2) TN MAC 609 (SC) (cited supra). The revised compensation awarded under various heads is extracted hereunder.

Sl.No	Heads	Amount
1	Loss of dependency (5250x12x16)	10,08,000
2	Medical Expenses	2,50,000
3	Loss of estate	15,000
4	Funeral expenses	15,000
5	Loss of Consortium to the first claimant	40,000
	Total	13,28,000

This amount would carry interest at the rate of 7.5% per annum from the date of claim petition.

12. It is represented by the learned counsel for the claimants that the 4th respondent (Marappa Gounder) died.

13. In the result,

(i) The civil miscellaneous appeal is dismissed. No costs.

(ii) The compensation awarded by the tribunal is enhanced from Rs.7,80,000/- to Rs.13,28,000/-

(iii) The claimants are directed to pay necessary court fees for the enhanced compensation amount, within three weeks from the date of this order.

(iv) The Appellant, Karnataka State Transport Corporation is directed to deposit the enhanced compensation amount of Rs.13,28,000/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit (less the amount already deposited by them) to the credit of MCOP.No.169 of 2003 on the file of the I Additional District Judge / Motor Accident Claims Tribunal, Coimbatore within a period of 4 weeks from the date of receipt of a copy of this order.

(v) The respondents 1, 2 and 5 are entitled to the compensation amount as apportioned below:

1. Rs. 4,28,000/- with proportionate costs and interest to the first claimant (P.Selvi), wife of the deceased.

2. Rs.6,00,000 with proportionate costs and interest to the 2nd claimant (Minor Poorani). Since in the claim petition, her age is mentioned as 2 months on the date of the accident, her share of compensation amount is ordered to be deposited in any one of the nationalized bank in India until she attains majority.

3. Rs.3,00,000/- with proportionate costs and interest to the 5th respondent (Marayaal), mother of the deceased.

(vi) On such deposit being made by the appellant/ Karnataka State Transport Corporation, the respondents 1 and 5 are at liberty to withdraw the compensation amount as apportioned above, after following due process of law.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mst

To

1. The I Additional District Judge/
   Motor Accident Claims Tribunal,
   Coimbatore.

2. The Managing Director,
   Karnataka State Transport Corporation Limited,
   having its Branch office at
   K.R.Nagar, Mysore.

+1cc to Mr.S.V.Vasantha Kumar, Advocate, S.R.No. 83308
+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No. 82346

CMA No.2299 of 2006 and
M.P.No.2 of 2006

GP(CO)
GN(05/01/2020)