



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2021

CORAM:

THE HONOURABLE **MRS.JUSTICE J.NISHA BANU**

C.M.A. (MD)No.730 of 2020

1.S.Pangiraj

2.P.Sebasthiammal

... Appellants/Petitioners
-Claimants

Vs.

1.Bharathi Srinivas Talikodi

2.The Claims Manager,

Iffco Tokio General Insurance Company Ltd.,

D.No.82, Pritham Pilaza 1st Floor,

Chandra Gandhi Nagar,

Ponmani Bypass Road,

Madurai-6251016

... Respondents/Respondents

PRAYER: This Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order and decree made in M.C.O.P.No.120 of 2017 dated 20.03.2020 on the file of the Principal District Court/Motor Accident Claims Tribunal, Virudhunagar District at Srivilliputtur.

For appellants

(*)For R2

: Mr.M.Thirunavukkarasu

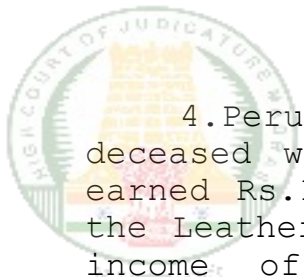
: **Mrs.K.R.Shivashankari**

JUDGMENT

Not satisfied with the quantum of compensation, this appeal has been filed by the claimants.

2.The learned counsel appearing for the appellant would state that at the time of accident, the deceased was aged 20 years, but the Tribunal has adopted "17" multiplier instead of "18" as per the judgment in **Sarla Verma Vs. Delhi Transport Corporation**, reported in **2009(2) TN MAC 1 (SC)**. He would further state that the Tribunal ought to have fixed the monthly income of the deceased at Rs.10,000/- instead of Rs.9,000/-, relying upon Ex.P.10-ITI Training Certificate of the deceased and Ex.P.11-Mark Statement. He would also submit that no future prospects was awarded. The deceased was aged 20 years and as per **Pranay Sethi's** case 40% future prospect is to be given. The appellants, who are parents of the deceased, lost their son, but there is no award under the heads of filial consortium and loss of estate. Thus, he would pray for enhancement of the award amount.

(*)3.Heard the learned counsel for the appellants and the respondents.



4.Perusal of records shows that the claimants claimed that the deceased was working as a Supervisor in KAH Leather Exports and earned Rs.10,000/- per month and they examined P.W.3 - a staff of the Leather Exports. But, the Tribunal fixed Rs.9000/- as monthly income of the deceased, but not awarded future prospects. Therefore, by applying the judgment in **National Insurance Company Limited Vs. Pranay Sethi and others**, reported in **2017 (2) TNMAC 609 (SC)**, 40% is added towards future prospects. After 40% addition, the income would be Rs.12,600/- and if 50% is deducted towards personal expenses, the monthly income would be Rs.6,300/-. After applying 18 multiplier, according to the age of the deceased, as per **Sarla Verma** case, the loss of income would be Rs.13,60,800/- (6300x12x18). Therefore, the appellants are entitled to get Rs.13,60,800/- for loss of income. The appellants lost their son at his age of 20 years, but there is no amount granted towards loss of filial consortium and therefore, the appellants are rewarded Rs.50,000 each under the head of loss of filial consortium, totally, Rs.1,00,000/-.

5.Except the above modification, the compensation under other heads are not interfered with. The compensation is modified and apportioned as hereunder:

Loss of Income	Rs.13,60,800/-
Loss of Love and Affection (Rs.30,000/- each)	Rs.60,000/-
Transport Expenses	Rs.10,000/-
Funeral Expenses	Rs.15,000/-
Loss of Filial Consortium (Rs.50,000/- each)	Rs.1,00,000/-
Total enhanced Compensation	Rs.15,45,800/-

6.In the result, the award of the Tribunal is enhanced from Rs.10,03,000/ - to Rs.15,45,800/-. The 2nd respondent / Insurance Company is directed to deposit modified compensation of Rs.15,45,800/- with interest at 7.5 per annum from the date of petition till the date of deposit, less the amount 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 the same in the ratio apportioned by the Tribunal without filing formal permission petition before the Tribunal. The claimants are directed to pay necessary Court fee, if any for the enhanced amount within a period of two weeks from the date of receipt of a copy of this judgment.



7. Accordingly, this Civil Miscellaneous Appeal is partly-allowed. No costs.

Sd/-

Assistant Registrar (CS-I)

(*) Corrected as per the of this Court dated 07.07.2021

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gns

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

(*)To be Substituted the as already despatched on 29.06.2021

To

1.The Principal District Court/Motor Accident Claims Tribunal,
Virudhunagar District at Srivilliputtur.

2.The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate (SR-5810[F] dated
18/02/2021)

+1 CC to M/s.K.R.SHIVA SHANKARI, Advocate (SR-6283[F] dated
19/02/2021)

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TR(25.06.2021) 3P 6C

KB(15.07.2021) 3P 6C