

Rev.Aplc(MD)No.68 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED: 17.04.2025

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
and
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

Rev.Aplc(MD)No.68 of 2025

The manager
Future General India Insurance Co.Ltd.,
180, Sri Ram Centre,
Theni Main Road,
Madurai West.

... Review Petitioner

Vs.

T.Gunasekaran (Deceased)

1.P.Thangaraj

2.Vellaiyammal

***3.Sumadhi**

4.R.Rajalakshmi

... Respondents

Prayer : This Review Petition is filed under Order 47 Rules 1 & 2 of C.P.C., r/w Section 114 of C.P.C., to review the judgment and decree of this Court dated 02.07.2024 made in C.M.A.(MD).No.173 of 2022, in so far as deducting 1/3 award amount towards personal expenses of deceased 1st respondent herein is concerned.

For Petitioner : Ms.K.R.Shivashankari

For Respondents : Mr.D.Sivaraman for R1 to R3



Rev.Appl(MD)No.68 of 2025

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ORDER

This review application has been filed seeking to review the Judgment passed by the Division Bench dated 21.07.2024 made in C.M.A(MD).No.173 of 2022.

2. The only contention raised by the Review petitioner is that in paragraph No. 13 of the judgment, this Court deducted 1/3 towards the personal expenditure of the deceased and the same is not correct.

3. The learned counsel for the respondent claimants would submit that this Court considering the special circumstances and also the contribution made by the sister of the deceased to his business and as she was the dependant of the deceased, correctly applied the 1/3 deduction and there no rigid law to apply the 1/2 in the case of the bachelor and he placed reliance on the judgment of the Hon'ble Supreme Court in the case of *Sarala Verma vs. Delhi Transport Corporation an another* reported in 2009 (6) SCC 121 and in the case of *National Insurance Company Ltd., vs. Pranay Sethi* reported in 2017 (2) TNMAC 607 SC. He seeks to dismiss the review with caution notice that the petitioner case does not come under the purview of the review jurisdiction under Section 114 r/w Order 47 Rule 1 of C.P.C.

4. This Court heard the learned counsel for the petitioner and the respondent.

5. After hearing the arguments of both sides, this Court has considered the



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special circumstances of the case and deducted 1/3 deduction towards the personal expenditure of the deceased in paragraph No.13 of the impugned judgment. The said conclusion is on the basis of the appreciation of the facts of the present case. The said finding is on the basis of the evidence that sister also contributed her labour to the deceased's business. Therefore, there is no reason to review the said impugned judgment and there is no ground to entertain this review application.

6. The learned counsel for the claimant also rightly relied the following portion of the judgment of the Hon'ble Supreme Court in the case of *Sarala Verma vs. Delhi Transport Corporation an another* reported in **2009 (6) SCC 121**:

32... where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third".

7. The learned counsel for the claimant also correctly submitted that the said paragraph has also been endorsed by the Hon'ble Constitution Bench of the Supreme Court in the case of *National Insurance Company Ltd., vs. Pranay Sethi* reported in **2017 (2) TNMAC 607 SC**. Apart from that, this is a benevolent legislations and the application of rigid principles would cause injustice to the claimant and therefore, the judgment of the Hon'ble Supreme Court in the case of



Sarala Verma vs. Delhi Transport Corporation an another reported in 2009 (6) SCC

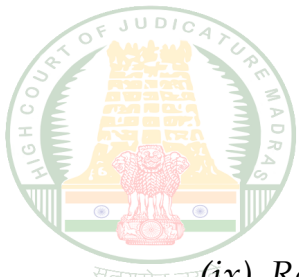
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121 provides an exemption to follow the principle of deduction of $\frac{1}{2}$ in the case of death of the bachelor and the same was approved by the Hon'ble Constitution Bench of the Supreme Court in *Pranay Sethi Case*.

8. In view of the above discussion, this Court finds no apparent error on record to entertain this review application and the case of the petitioner does not come under the following guidelines issued by the Hon'ble Supreme Court in the case of *Kamlesh Verma v. Mayawati*, reported in (2013) 8 SCC 320 at page 333 to entertain the review:

20.2. When the review will not be maintainable:

- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.
- (ii) Minor mistakes of inconsequential import.
- (iii) Review proceedings cannot be equated with the original hearing of the case.
- (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.
- (v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.
- (vi) The mere possibility of two views on the subject cannot be a ground for review.
- (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.
- (viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.



Rev.Aplc(MD)No.68 of 2025

सत्यमेव जयते (ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.

9. Accordingly, this Review Application stands dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CO)

(*)Corrected as per order of this Court dated 28/07/2025 made in Rev.Aplc(MD)No.68 of 2025

Sd/-

17.04.2025

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/ /2025

Sub-Assistant Registrar
(C.S - I / II/ III / IV)

shn

To

(*)To be substituted to the order already despatched on 19/06/2025

The Chief Judicial Magistrate,
The Motor Accidents Claims Tribunal, Madurai.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-25456[F] dated 21/04/2025)

Rev.Aplc(MD)No.68 of 2025

17.04.2025



Rev.Aplc(MD)No.68 of 2025

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Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023

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