

K.Subramani Vs. P.Venkatachalam

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Court : Chennai

Decided On : Jan-08-2013

Judge : S.Manikumar

Appellant : K.Subramani

Respondent : P.Venkatachalam

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED :

08. 01.2013 CORAM THE HONOURABLE MR.JUSTICE S.MANIKUMAR
C.M.A.No.3767 o

1. K.Subramani 2. Sowndaram ... Appellants v.

1. P.Venkatachalam 2. N.Govindasamy 3. The Oriental Insurance Co., Ltd.,
Divisional Office Parimalam Complex E.V.N.Road Erode 11 ... Respondents Civil
Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the
Judgment and decree of the Principal District Judge, of Erode District at Erode
(MACT) made in M.C.O.P.No. 509 of 1999, dated 2.2.2001. For Appellants :
Mr.Pity S. Parthasarathy for Mr.S.K.Nachimuthu For 3rd Respondent :
Mr.J.Chandran

In an accident, which occurred on 10.01.1999, son of the respondents died. Legal
representatives claimed compensation of Rs.5,00,000/-. The Claims Tribunal has
awarded only Rs.54,500/- with interest at the rate of 12% p.a., from the date of

order, till the date of realisation. The Claims Tribunal has apportioned the amount equally to the parents. Being aggrieved by the inadequacy of quantum of compensation, they have filed the present Appeal.

2. It is the case of the claimants that on 10.1.1999, about 9.30 p.m., on Perundurai to Kunnathur road, near Sanatorium, the deceased Koteeswaran was walking, from west to east, keeping to the left side of the road and at that time, one Mr.P.Venkatachalam, riding a motorcycle, bearing Registration not TN-33-J-2812, in a rash and negligent manner, dashed against the pedestrian. He sustained multiple injuries and succumbed to the same. A case in Crime No. 18 of 1999 has been registered against the rider, first respondent herein, on the file of Perundurai Police Station.

3. According to the parents/appellants, at the time of accident, the deceased was aged about 23 years and as a salesman, earned Rs.5,000/- per month. Though the appellants have marked Ex.A8, dated 05.02.1999, salary certificate, upon considering the authenticity of the said certificate and holding that the same was not proved, the Claims Tribunal, rejected the said certificate.

4. A perusal of the award shows that the father of the deceased has examined himself as PW-1 and reiterated the manner of accident. Ex. A-1, dated 10.01.1999 Certified copy of F.I.R; Ex. A-2, dated 10.01.1999 Certified copy of the Observation Mahazar; Ex. A-3, dated 10.01.1999 Certified copy of the Rough Sketch; Ex. A-4, dated 10.01.1999 Certified copy of the Accident Register; Ex. A-5, dated 10.01.1999 Certified copy of the Charge sheet; Ex. A-6, dated 10.01.1999 Certified copy of the summary Trial Extract; Ex. A-7, dated 11.01.1999 Certified copy of the Postmortem Certificate; and Ex. A-8, dated 05.02.1999 Salary Certificate, have been marked on the side of the appellants.

5. Upon a perusal of the documents Ex. A-1 to A-6, and in particular, Ex. A-6, the Claims Tribunal has noticed that the first respondent-rider has been charge sheeted and that he has also admitted the guilt and accordingly, paid the fine amount. The Claims Tribunal held that the accident occurred only due to the rash and negligent driving of the first respondent.

6. On the aspect of quantum of compensation, while discrediting Ex. A-8 Salary Certificate, on the ground that its authenticity has not been proved and by observing that Motor Vehicles Act 1988 provides only for a minimum compensation of Rs.50,000/- in the case of death in a road accident, the Claims Tribunal has awarded only Rs.50,000/-. In addition to the above, the Claims Tribunal, has awarded Rs.4,500/- for funeral expenses and for the loss of estate.

7. Mr.Pity S.Parthasarathy, learned counsel for the appellants submitted that the deceased was their only son. He submitted that the Claims Tribunal has erred in rejecting Ex.P8, Salary Certificate, by assigning untenable reasons. He further submitted that prior to death, their son, as a Salesman, earned a reasonable income and contributed a portion of the same to the family. According to him, as parents of the deceased being the legal representatives to the estate of the deceased, they are entitled to a just and reasonable compensation. He submitted that it is not necessary to prove dependency, but suffice to plead and prove that there is a loss of contribution. He also submitted that having regard to the age of the claimants/parents, '15' multiplier ought to have been applied for the purpose of computing the loss of contribution to the family.

8. Per contra, Mr.J.Chandran, learned counsel for the Insurance Company submitted that there is no manifest error in the award. According to him, when the appellants/parents have not produced any evidence to prove employment and contribution to the family, a sum of Rs.50,000/- alone can be awarded. Without prejudice to the same, he further submitted that even assuming that the deceased can be treated as a earning member, the deceased being a bachelor and that the parents, being the claimants, as per the decision made in Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr. reported in 2009(2) TNMAC 1 50% deduction has to be made from the income towards the personal living expenses of the deceased for the purpose of computing the loss of contribution to the family. Heard the learned counsel for the parties and perused the materials available on record.

9. Perusal of the award shows that though the parents/appellants have contended that as legal representatives of the deceased, they are entitled for a just and reasonable compensation, the Claims Tribunal, by observing that at the time of

accident, there was nothing on record to prove that they were solely dependent on the income of the deceased, nor there was any material to prove that the deceased was a earning member, restricted the award only to Rs.50,000/-, as if it was a case of 'no fault liability'.

10. As per Section 166 of the Motor Vehicles Act, the legal representatives of the deceased are entitled to make a claim for a just and reasonable compensation and that the same ought to have been adverted to, by the Tribunal, in proper perspective. At the time of accident, the deceased was stated to be aged about 23 years and that the parents were aged 45 and 42 years respectively. Though the Claims Tribunal has discredited Ex.P8 - Salary Certificate, this Court is of the view that, at the age of 23 years, the deceased would have engaged in some employment or avocation and even as a Labourer, earned a reasonable income. The Claims Tribunal has committed a grave irregularity in denying just and reasonable compensation to the parents, who have lost their son. Even if the deceased was not an earning member, Section 163-A and the Schedule to the Section contemplate computation of compensation, as per the structured formula, by taking the notional income.

11. As rightly contended, dependency is not the only criteria to award compensation. Computation of compensation is based on the principle of 'just compensation' and Courts have consistently held that it should not be a bonanza or manna from heaven to the legal representatives of the deceased, nor there should be an unjust enrichment. At this juncture, it is worthwhile to extract few decisions, (i) In R.D.Hattangadi v. M/s.Pest Control (India) Pvt. Ltd., reported in AIR 199.SC 755.wherein, the Apex Court held as follows: "In its very nature whenever a Tribunal or a Court is required to fix the amount of compensation in cases of accident, it involves some guess work, some hypothetical consideration, some amount of sympathy linked with the nature of disability caused. But all the aforesaid elements have to be viewed with objective standards." (ii) In Common Cause, A Registered Society v. Union of India reported in 1999 (6) SCC 667.at Paragraph 128, held as follows: The object of an award of damages is to give the plaintiff compensation for damage, loss or injury he has suffered. The elements of damage recognised by law are divisible into two main groups : pecuniary and non-

pecuniary. While the pecuniary loss is capable of being arithmetically worked out, the non-pecuniary loss is not so calculable. Non-pecuniary loss is compensated in terms of money, not as a substitute or replacement for other money, but as a substitute, what McGregor says, is generally more important than money: it is the best that a court can do. In *Re: The Medianna* (1900) A.C. 1300, Lord Halsbury L.C. observed as under: "How is anybody to measure pain and suffering in moneys counted? Nobody can suggest that you can by arithmetical calculation establish what is the exact sum of money which would represent such a thing as the pain and suffering which a person has undergone by reason of an accident...But nevertheless the law recognises that as a topic upon which damages may be given." (iii) In yet another decision in *Divisonal Controller, KSRTC v. Mahadeva Shetty and another* reported in (2003) 7 SCC 197.at Paragraph 12, the Supreme Court has held that, "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 benefits to the dependents of the deceased which includes pecuniary loss, expenses etc. and loss to the estate. The object is to mitigate hardship that has been caused to the legal representatives due to the sudden demise of the deceased in the accident. Compensation awarded should not be inadequate and should neither be unreasonable, excessive, nor deficient. There can be no exact uniform rule for measuring the value of human life and the measure of damage cannot be arrived at by precise mathematical calculation; but amount recoverable depends on broad facts and circumstances of each case. It should neither be punitive against whom claim is decreed nor should it be a source of profit for the person in whose favour it is awarded." At Paragraph 15 of the said judgment, the Supreme Court has held that, "Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of "just" compensation which is the pivotal consideration. Though by use of the expression "which appears to it to be just", a wide discretion is vested in the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness, and non-arbitrariness. If it is

not so, it cannot be just." (iv) In *Nizam Institute of Medical Sciences v. Prasanth S.Dhananka* reported in (2009) 6 SCC 1 = 2010 ACJ 3.(SC), the Supreme Court, comprising of three Hon'ble Judges Bench was dealing with a case arising out of a complaint filed under the Consumer Protection Act, 1986. While enhancing the compensation awarded by the National Consumer Disputes Redressal Commission from Rs.15 lakhs to Rs.1 crore, the Hon'ble Bench made the following observations which can appropriately be applied for deciding the petitions filed under Section 166 of the Act: We must emphasise that the court has to strike a balance between the inflated and unreasonable demands of a victim and the equally untenable claim of the opposite party saying that nothing is payable. Sympathy for the victim does not, and should not, come in the way of making a correct assessment, but if a case is made out, the court must not be chary of awarding adequate compensation. The adequate compensation that we speak of, must to some extent, be a rule of thumb measure, and as a balance has to be struck, it would be difficult to satisfy all the parties concerned. ...At the same time we often find that a person injured in an accident leaves his family in greater distress vis-a-vis a family in a case of death. In the latter case, the initial shock gives way to a feeling of resignation and acceptance, and in time, compels the family to move on. The case of an injured and disabled person is, however, more pitiable and the feeling of hurt, helplessness, despair and often destitution enures every day. The support that is needed by a severely handicapped person comes at an enormous price, physical, financial and emotional, not only on the victim but even more so on his family and attendants and the stress saps their energy and destroys their equanimity. (emphasis supplied) (v) In *Reshma Kumari and others v. Madan Mohan* reported in (2009) 13 SCC 422.the Apex Court reiterated that the compensation awarded under the Act should be just and also identified the factors which should be kept in mind while determining the amount of compensation. The relevant portions of the judgment are extracted below: The compensation which is required to be determined must be just. While the claimants are required to be compensated for the loss of their dependency, the same should not be considered to be a windfall. Unjust enrichment should be discouraged. This Court cannot also lose sight of the fact that in given cases, as for example death of the only son to a mother, she can never be compensated in monetary terms. The question as to the

methodology required to be applied for determination of compensation as regards prospective loss of future earnings, however, as far as possible should be based on certain principles. A person may have a bright future prospect; he might have become eligible to promotion immediately; there might have been chances of an immediate pay revision, whereas in another (sic situation) the nature of employment was such that he might not have continued in service; his chance of promotion, having regard to the nature of employment may be distant or remote. It is, therefore, difficult for any court to lay down rigid tests which should be applied in all situations. There are divergent views. In some cases it has been suggested that some sort of hypotheses or guess work may be inevitable. That may be so. In the Indian context several other factors should be taken into consideration including education of the dependants and the nature of job. In the wake of changed societal conditions and global scenario, future prospects may have to be taken into consideration not only having regard to the status of the employee, his educational qualification; his past performance but also other relevant factors, namely, the higher salaries and perks which are being offered by the private companies these days. In fact while determining the multiplicand this Court in *Oriental Insurance Co. Ltd. v. Jashuben*, 2008 ACJ 109.(SC), held that even dearness allowance and perks with regard thereto from which the family would have derived monthly benefit, must be taken into consideration. One of the incidental issues which has also to be taken into consideration is inflation. Is the practice of taking inflation into consideration wholly incorrect? Unfortunately, unlike other developed countries in India there has been no scientific study. It is expected that with the rising inflation the rate of interest would go up. In India it does not happen. It, therefore, may be a relevant factor which may be taken into consideration for determining the actual ground reality. No hard-and-fast rule, however, can be laid down therefor.

12. According to the parents, the deceased was their only son. The Claims Tribunal, without advertng to the rudimentary principles, in the matter of awarding just and reasonable compensation, has erroneously restricted the award only to Rs.50,000/-, as if, it is a case of 'No Fault Liability'. As stated supra, immediately, after the accident, a case in Crime No.18 of 1999 has been registered, against the motorcyclist, before Perundurai Police Station and that on evaluation of pleadings

and evidence, the Claims Tribunal has held that the accident has occurred only, due to the rash and negligent driving of the first respondent. In such circumstances, the Claims Tribunal ought to have perceived the pain and suffering of the parents, who have lost their only beloved son in the accident and even taking it for granted, that the computation could not be made, on the basis of Ex.P8 Salary Certificate, still considering the beneficial legislation of providing just compensation to the legal representatives of the deceased, as envisaged in the legislation, ought to have computed the compensation, under Section 163-A of the Motor Vehicles Act, by applying structured formula.

13. Admittedly, when the findings of the Claims Tribunal, is against the rider of the Motorcycle, bearing Registration not TN-33-J-2812, insured with the third respondent-Insurance Company, the compensation restricting to Rs.50,000/- only, as if, it is a case of 'No Fault Liability', is wholly unjustified and it is a miscarriage of justice to the legal representatives of the deceased/parents.

14. The accident has occurred on 10.01.1999. For the reasons stated supra, this Court is inclined to fix the monthly income of the deceased at Rs.3,000/- for the purpose of estimating the loss of contribution to the family. The deceased was a bachelor. Considering the submission of the appellants/parents that the deceased was their only son, this Court is inclined to compute the loss of contribution to the family, by deducting 1/3rd towards personal and living expenses of the deceased and by applying multiplier, applicable to the age of the parents, it works out to Rs.3,60,000/- (Rs.24,000 x 15). As per Sarala Verma's case, the multiplier to be applied, considering the age of the deceased should be '18'. But having regard to the decisions rendered by the Apex Court, at the time of disposal of the claim petition, this Court has applied the multiplier to the age of the parents.

15. Apparently, when the compensation was restricted only to Rs.50,000/-, as if, it is a case of 'No Fault Liability', the Claims Tribunal has also not adverted to the claim under other heads, including the loss of love and affection. However, the Claims Tribunal has awarded a consolidated sum of Rs.4,500/-, under the Funeral Expenses and Loss of Estate. On the facts and circumstances of the case, this Court is inclined to award a sum of Rs.5,000/- for Funeral Expenses. Both the

parents are hereby awarded compensation of Rs.10,000/- each, under the head, loss of love and affection. A sum of Rs.5,000/- is awarded towards transportation and that apart, Rs.5,000/- is awarded towards loss of estate and Rs.500/- towards damage to the clothes. Summing up, the total compensation works out to Rs.3,95,500/-.

16. On the aspect of interest, Section 171 of the Motor Vehicles Act, states that where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf. Earlier, in the beginning of this judgment, this Court has recorded that the Claims Tribunal has awarded interest at the rate of 12% per annum, from the date of award, till the date of realisation and not from the date of filing of the claim petition.

17. It is the contention of the learned counsel for the Insurance Company that since the appellants/parents were not diligent in prosecuting the appeal, interest cannot be mulcted on the Insurance Company. He also submitted that though repeated representations have been made to the Registry to post the appeals or petitions for condonation, as the case may be, the matter has not been listed and hence, for the delay caused in the interregnum period, interest should not be fastened on the Company.

18. The High Court, exercising appellate jurisdiction, against an award passed by the Motor Accident Claims Tribunal, has got plenary jurisdiction and in exercise of the powers under Section 171 of the Motor Vehicles Act, is empowered to enhance the compensation amount and order interest, in appropriate cases, on the principles of 'just compensation'. The contention of the learned counsel for the Insurance Company, in blaming the parents that they were not diligent in prosecuting the appeal, is rejected.

19. Delay in disposal of the cases cannot be disputed. As new laws emerge and when there is awareness of rights, litigation has increased. When number of Judges is less, the burden on the Institution is heavy. Therefore, the contention that when there is the delay in disposal of the appeals filed by the claimants,

interest should not be fastened on the Insurance Company, cannot be accepted.

20. When notice is ordered in the delay excuse petitions filed along with the appeals preferred by Insurance Company or Corporation or owners, as the case may be, inspite of sufficient time, granted by Registry in many cases, steps are not being taken by the appellants. Many a times, it could be seen from the docket entries of the concerned officer of this Court, before whom, the matters are being listed, there is not even a representation by the appellants, as to whether they have taken steps for service on the respondents/claimants. At this juncture, this Court deems it fit to extract few paragraphs from the judgment of this Court in *Jai Prakash v. National Insurance Company Ltd.*, reported in 2010 (2) SCC 607. after perceiving the difficulties faced by the legal representatives of the deceased or the injured, the Supreme Court observed and suggested as follows: "4.1. In cases of death, where the liability of the insurer is not disputed, the insurance companies should, without waiting for the decision of the Motor Accidents Claims Tribunal or a settlement before the Lok Adalat, endeavour to pay to the family (Legal representatives) of the deceased, compensation as per the standard formula determined by the decisions of this Court. [Para 15] 4.2. In cases of injuries to any accident victim, where the liability is not disputed, the insurer should offer treatment at its cost to the injured, without waiting for an award of the Tribunal. If insurance companies can meet the bills for treatment of those who have taken a medical insurance policy, there is no reason why they should not extend a similar treatment to the accident victims of vehicles insured with them. [Para 16] 5.1. To protect and preserve the compensation amount awarded to the families of the deceased victim special schemes may be considered by the insurance companies in consultation with the Life Insurance Corporation of India, State Bank of India or any other Nationalized Banks. One proposal is for formulation of a scheme in consultation with Nationalized Banks under which the compensation is kept in fixed deposit for an appropriate period and interest is paid by the Bank monthly to the claimants without any need for claimants having to approach either the court or their counsel or the Bank for that purpose. The scheme should ensure that the amount of compensation is utilized only for the benefit of the injured claimants or in case of death, for the benefit of the dependent family. [Para 18] 5.2. The Insurance companies may also consider offering an annuity instead of lump sum

compensation. They may prepare an annuity scheme with the involvement of Life Insurance Corporation of India or its own actuaries, under which they can pay a monthly annuity to the widow (for life) and to minor children (till they attain majority) and in addition a lump sum at the end of 20 or 25 years to the widow. The benefit of such annuity scheme may also be extended to victims who are permanently disabled in accidents. Once such schemes are in place, the victims and the Tribunal will have some choice in the manner of payment of compensation. [Para 19] In the reported judgment, the Supreme Court at Paragraph 15, has further held as follows:

15. In cases of death, where the liability of the insurer is not disputed, the insurance companies should, without waiting for the decision of the Motor Accidents Claims Tribunal or a settlement before the Lok Adalat, endeavour to pay to the family (Legal representatives) of the deceased, compensation as per the standard formula determined by the decisions of this Court." 21. In the case on hand, the Claims Tribunal has held that the motorcyclist was negligent, in causing the accident. Admittedly, on the date of accident, the contract of insurance between the insured and Oriental Insurance Company, Erode, the 3rd respondent herein, was in force. When the liability of the Insurance Company to pay compensation to the legal representatives of the deceased, was disputed before the Claims Tribunal, on the ground that the motorcyclist was not at fault, in causing the accident and when an adverse finding has been recorded by the Tribunal, against the rider, payment of compensation to the legal representatives of the deceased, either under Section 163-A or 166 of the Motor Vehicles Act, as the case may be, is automatic.

22. As stated supra, the Claims Tribunal has committed an error, in restricting the compensation only to Rs.50,000/- as if, it was case of 'No Fault Liability'. When fault is proved, the third respondent-Insurance Company ought to have volunteered to pay a just and reasonable compensation, by computing the compensation under Section 163-A of the Act, even if the appellants/parents have failed to prove the authenticity of Ex.P8 Salary Certificate.

23. As rightly observed by the Supreme Court in Jai Prakash's case (cited supra), in case of death, where liability of the insurer is not disputed, the Insurance Company should, without waiting for the decision of the Motor Accident Claims Tribunal or Settlement before the Lok Adalat, endeavor to pay the family of the deceased, compensation as per the structured formula, and as per the decisions of the Supreme Court.

24. Oriental Insurance Company Ltd., third respondent, one of the four General Insurance Companies, cannot plead ignorance of the decisions of the Supreme Court, as to whether, the legal representatives of the third party victim, is entitled to a just and reasonable compensation, either under Section 163-A of the Motor Vehicles Act, even assuming that the deceased was an non-earning member or under Section 166 of the Motor Vehicles Act, as the case may be. Even assuming that the Claims Tribunal has committed a blunder in not awarding a just and reasonable compensation in terms of Section 166 of the Act, when fault is proved or under the structured formula, as per the Schedule to Section 163-A of the Motor Vehicles Act, the Oriental Insurance Company, one of the litigating companies in Motor Accident Claims, ought to have come forward to award a just compensation. The poor and ignorant litigants should not have been driven to file an appeal. The attitude of the Insurance Company, in taking advantage of an erroneous order, denying compensation to the legal representatives of the deceased and ultimately, blaming the bereaved parents, by contending that they were not diligent in not prosecuting the appeal, as if, the Insurance Company does not have a legal and moral obligation to pay a just compensation and also blaming the Court for the delay, cannot be appreciated.

25. As stated supra, the Supreme Court, taking note of the pendency of the Claim Petitions, the delay in disposal of the applications for compensation, has observed that while the liability of the insurer is decided, the Company, without waiting for the decisions from the Motor Accident Claims Tribunal, should pay a just and reasonable compensation to the legal representatives of the accident victim. In the case on hand, the contention of the learned counsel for the appellant, proceeds as if, the third respondent-Insurance Company, is the only company in this Country to settle all the claims promptly, then and there and redress the grievance of the

injured/legal representatives of the accident victim, without any delay.

26. The action of the Company, in denying a just and reasonable compensation to the appellants, treating the claim, as if, it is a "No Fault Liability" knowing fully well that fault has been fixed on the rider of the vehicle, insured with them, is contrary to the provisions of the Motor Vehicles Act and on the facts and circumstances of the case, this Court is constrained to say that it is inhuman. The Company is not expected to take a pedantic approach, rather, it is expected to take a pragmatic approach, considering the huge backlog of cases, pending on the file of Courts. Courts are not machines or electronic devices, like computers to give ready made answers, without adjudicating the claims/rights of the adjudicating parties, on the basis of pleadings and evidence. The number of vehicles are increasing. Though new roads and bridges are formed to reduce congestion and accidents, yet the number of accidents is on the increase. The pressure on the Courts, with the available sanctioned strength and the supportive staff, is also a factor and added to that, there are other types of litigation. Though the Courts are sensitized to expedite disposal of cases, giving preference to the accident claims, yet delay is bound to occur, due to docket explosion and in the above circumstances, the Company cannot extricate itself from payment of just compensation and interest.

27. Taking judicial notice of the technical objections, stated by the Insurance Companies, in Govind Yadav vs. The New India Insurance Company Limited, reported in (2011) 10 SCC 683, the Supreme Court, held as follows: "10. The personal sufferings of the survivors and disabled persons are manifold. Some time they can be measured in terms of money but most of the times it is not possible to do so. If an individual is permanently disabled in an accident, the cost of his medical treatment and care is likely to be very high. In cases involving total or partial disablement, the term 'compensation' used in Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') would include not only the expenses incurred for immediate treatment, but also the amount likely to be incurred for future medical treatment/care necessary for a particular injury or disability caused by an accident. A very large number of people involved in motor accidents are pedestrians, children, women and illiterate persons. Majority of them cannot, due to sheer ignorance, poverty and other disabilities, engage competent lawyers for

proving negligence of the wrongdoer in adequate measure. The insurance companies with whom the vehicles involved in the accident are insured usually have battery of lawyers on their panel. They contest the claim petitions by raising all possible technical objections for ensuring that their clients are either completely absolved or their liabilities minimized. This results in prolonging the proceedings before the Tribunal. Sometimes the delay and litigation expenses' make the award passed by the Tribunal and even by the High Court (in appeal) meaningless. It is, therefore, imperative that the officers, who preside over the Motor Accident Claims Tribunal adopt a proactive approach and ensure that the claims filed under Sections 166 of the Act are disposed of with required urgency and compensation is awarded to the victims of the accident and/or their legal representatives in adequate measure." 28. Had the Insurance Company come forward to settle a reasonable sum, the parents/appellants would not have to litigate for so many years. Merely because, the appeal was pending on the file of this Court and that there was a delay, it is unjust and arbitrary to contend that the appellants/legal representatives of the deceased should be denied payment of interest from the date of claim.

29. In the light of the above decisions, statutory provisions under Sections 171 and 173 of the Motor Vehicles Act r/w. Order 41 Rule 43 and having regard to the plight of the parents/appellants, who have been denied of their legitimate claim for a just and reasonable compensation, under the heads, loss of contribution to the family and loss of love and affection, due to the gross failure of the Claims Tribunal in not properly advertent to the factors, to be taken into consideration, while awarding just compensation, this Court is inclined to order interest, at the rate of 7.5% per annum, on the enhanced compensation from the date of claim, till the date of realisation.

30. The appellants/claimants are entitled to a Compensation of Rs.3,95,500/- with interest at the rate of 7.5% per annum, from the date of claim, till the date of realisation, under the following heads: Loss of contribution : Rs.3,60,000/- Funearl expenses : Rs. 5,000/- Love and affection : Rs. 20,000/- Transportation : Rs. 5,000/- Loss of Estate : Rs. 5,000/- Damage to clothes : Rs. 500/- -----
Total Rs.3,95,500/- ----- 31. In the result, the appellants are entitled to an

enhanced compensation of Rs.3,45,500/- with interest at the rate of 7.5% per annum from the date of claim till until realisation. The third respondent-Insurance Company is directed to deposit the enhanced amount with accrued interest at the rate of 7.5% per annum, to the credit of M.C.O.P.No.509 of 1999 on the file of the Principal District Judge of Erode District at Erode, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the appellants/parents are permitted to withdraw the same, by making necessary applications before the Tribunal.

32. Since the order of enhancement is being made after lapse of many years, the learned Principal District Judge, Erode District, is directed to consider the payment out petition after proper verification. No costs. 08.01.2013 Index: Yes Internet: Yes skm To The Principal District Court, Motor Accident Claims Tribunal Erode District. S.MANIKUMAR, J.

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