

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 7180 OF 2022
[Arising out of SLP (C) No. 10206 of 2020]

S. VASANTHI & ANR.

...APPELLANT(S)

VERSUS

**M/S ADHIPARASAKTHI ENGG.
COLLEGE AND ANOTHER**

...RESPONDENT(S)

J U D G M E N T

B.R. GAVAL, J.

1. Leave granted.

2. This appeal challenges the judgment and order dated 31st January, 2020, passed by the High Court of Judicature at Madras in CMA No. 2518 of 2016.

3. The facts, in brief, giving rise to the present appeal are as under:

3.1 On 22nd May, 2010, S. Sathiyamarayan was riding on a Bajaj Avenger motorcycle, bearing registration No. TN-04-S-6492, at GST Road, Tambaram. While he was travelling from the south to north direction by the western side of the road, a bus owned by M/s Adhiparasakthi Engineering College (respondent no. 1 herein), bearing registration No.

TN-21-H-2727, which was being driven rashly and negligently, came from the same direction and dashed against his motor cycle from the backside, thus dragging him under the wheels of the bus. S. Sathiyarayan perished on the spot.

3.2 Thereafter, the bereaved parents of the deceased, who are the appellants herein, filed a claim petition before the Motor Accident Claims Tribunal, Poonamallee (hereinafter referred to as “the Tribunal”), under Section 166 of the Motor Vehicles Act, 1988, being M.C.O.P. No. 1201 of 2010, for grant of compensation to the tune of Rs. 30,00,000/- with interest, on account of the death of their son.

3.3 The Tribunal, noting that the deceased S. Sathiyarayan was, at the time of the accident, twenty-three years of age and a student in the second year of the MBA course at SRM University, passed an award amounting to Rs. 7,48,052/- as compensation with interest at the rate of 7.5% per annum from the date of the petition till the date of realization. Pertinently, the Tribunal fixed the notional monthly income of the deceased at Rs. 7,000/- per month,

since he was not earning any salary at the time of the accident.

4. Aggrieved by the amount of compensation so awarded, the appellants herein carried an appeal to the High Court seeking enhancement of the compensation.

5. Noting that the notional income fixed by the Tribunal was meagre, the High Court enhanced the notional income to a sum of Rs. 10,000/- per month. Thus, the High Court enhanced the compensation from Rs. 7,48,052/- to Rs. 16,27,000/-. Within that amount, the High Court also enhanced the amount of loss of dependency, loss of love and affection as well as funeral expenses, and further granted an amount of Rs. 15,000/- as loss of estate.

6. Being aggrieved thereby, the present appeal.

7. We have heard Mr. T. Harish Kumar, learned counsel appearing on behalf of the appellants and Mr. A. K. De, learned counsel appearing on behalf of respondent No. 2-United India Insurance Co. Ltd.

8. Mr. T. Harish Kumar, learned counsel for the appellants, submits that both the Tribunal and the High

Court have grossly erred in calculating the notional monthly income of the deceased S. Sathiyarayan at the rate of Rs. 10,000/-. He submits that the High Court ought to have considered that S. Vasanthi - appellant No. 1, in an affidavit filed by her before the Tribunal, had stated that two classmates of her deceased son would go on to get employment with reputed companies in India on a monthly salary of approximately Rs. 40,000/-. The learned counsel submits that appellant No. 1 had, in fact, produced the salary certificates of the said two classmates with her affidavit. The learned counsel therefore submits that the deceased S. Sathiyarayan, being an engineering graduate who was pursuing an MBA degree to further his career, would have attracted well-paying jobs had he been alive. The learned counsel therefore submits that the notional monthly income of the deceased S. Sathiyarayan should be enhanced to Rs. 42842/-. The learned Counsel relies on the judgment of this Court in the case of **Kurvan Ansari Alias Kurvan Ali and Another vs. Shyam Kishore Murmu and Another**¹, in support of his contention.

¹ (2022) 1 SCC 317

9. Per contra, learned counsel for the respondents contend that both the Tribunal and the High Court were correct in assessing the notional income at the rate of Rs. 7,000/- and Rs. 10,000/- per month respectively, as the deceased S. Sathiyarayan was not yet in employment and was merely a second-year student of his MBA course at that time.

10. A perusal of the affidavit filed by appellant No. 1 before the Tribunal would reveal that she had specifically stated that two of her son's classmates were gainfully employed with well-known companies in India and were drawing monthly income of Rs. 39,869/- and Rs. 44,588/- respectively. It will be relevant to note that neither the Tribunal nor the High Court has adverted to these averments made by appellant No. 1.

11. It could thus be seen that the deceased S. Sathiyarayan was twenty-three years of age at the time of the accident. He was a qualified engineering graduate and was pursuing an MBA degree at SRM University to further his professional capabilities. In view of the specific averments made in the affidavit as to the employment

prospects of the classmates of the deceased S. Sathiyarayan and also his young age at the time of the accident, we are of the considered view that the Tribunal and the High Court have erred in not giving due weightage to the same. Had the deceased S. Sathiyarayan not met with the unfortunate accident, he would have surely drawn a salary equivalent to that of his classmates or at least an amount near the said amount. Furthermore, the deceased was the only issue of the appellants. Since no parent should have to suffer through the death of their children, much less their only child, we are of the considered view that the monthly income as calculated by the High Court is inadequate.

12. Thus, we find that the compensation to be paid on account of the death of deceased S. Sathiyarayan ought to be worked out by enhancing his monthly income to Rs. 30,000/-. However, we find that, since he was the only child of the appellants, in view of paragraphs (31) and (32) of the judgment in the case of **Sarla Varma (Smt.) and Others v. Delhi Transport Corporation and Another**², as upheld by

² (2009) 6 SCC 121

a Constitution Bench decision in the case of ***National Insurance Company Limited v. Pranay Sethi and Others***³, 50% of the amount would have to be deducted as personal and living expenses. We further find that, insofar as the loss of consortium is concerned, an amount of Rs. 40,000/- will have to be awarded. The compensation on account of the death of the deceased S. Sathiyarayan is, therefore, being reassessed as under:

Sr. No.	Heads	Calculation
1.	Income	Rs. 30,000/- per month
2.	40% to be added to Future Prospects	30,000/- + 12,000/- = Rs. 42,000/- per month
3.	1/2 deducted towards personal expenses	42,000/2 = Rs. 21,000/-
4.	Yearly Income [(Sl. No.2-Sl. No. 3) x 12]	21,000 x 12 = Rs. 2,52,000/-
5.	Compensation after Multiplier	2,52,000 x 18 = Rs. 45,36,000/-
6.	Conventional Head (Funeral Expense and Loss of Estate)	Rs. 30,000/-
7.	Loss of Consortium	Rs. 40,000/-

8.	Transportation Expenses	Rs. 5,000/-
•	Total Compensation Awarded (5+6+7+8)	Rs. 46,11,000/-
•	Enhanced amount of Compensation from MACT (Rs. 7,48,052/-)	46,11,000-7,48,052 = Rs. 38,62,948/-
•	Enhanced amount of Compensation from HC (Rs. 16,27,000/-)	46,11,000 – 16,27,000 = Rs. 29,84,000/-

13. The enhanced compensation of Rs. 29,84,000/- along with interest at the rate of 7.5% per annum shall be paid to the appellants within a period of three months from the date of this judgment.

14. The appeal is allowed in the aforesaid terms. No order as to costs. Pending application(s), if any, shall stand disposed of.

.....**J.**
[B.R. GAVAI]

.....**J.**
[C.T. RAVIKUMAR]

NEW DELHI;
OCTOBER 11, 2022.