

B. SANGEETHA & ANR.

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v.

OMR TRAVEL ACCESS PVT. LTD. & ANR.

(Civil Appeal No. 2511 of 2020)

JUNE 05, 2020

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**[DR. DHANANJAYA Y CHANDRACHUD,
HEMANT GUPTA AND AJAY RASTOGI, JJ.]**

Compensation:

Motor Accident – claim for compensation – Tribunal taking the monthly income of deceased as Rs. 9000/- p.m. awarded compensation of Rs. 20,11,000/- – High Court in appeal enhanced the compensation to Rs. 33,07,000/-, by taking the monthly income of deceased as Rs. 15000/- p.m.– Appeal to Supreme Court – Held: The salary certificate of the deceased indicated that his monthly salary was Rs. 23,419/- p.m.– Therefore, compensation awarded by High Court is enhanced to Rs. 45,29,000/-, with interest at 9% p.a. from the date of filing of claim petition until payment – Appeal allowed – Motor Vehicles Act, 1988.

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National Insurance Company Limited v. Pranay Sethi
(2017) 16 SCC 680 : [2017] 13 SCR 100 – relied on.

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Case Law Reference

[2017] 13 SCR 100

relied on

Para 8

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2511 of 2020.

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From the Judgment and Order dated 27.06.2017 of the High Court of Judicature at Madras in CMA No. 2667/2015.

T. Harish Kumar, Navneet Dugar, Advs. for the Appellants.

Smarhar Singh, Ashutosh Thakur, A. K. Soni, Rajeev Maheshwaranand Roy, P. Srinivasan, Adv. for the Respondents.

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A The following Order of the Court was passed :

ORDER

1. Leave granted.

B 2. This appeal arises from a judgment and order dated 27 June 2017 of a Division Bench of the High Court of Judicature at Madras. The High Court in an appeal against an award of the Motor Accident Claims Tribunal¹, enhanced the compensation payable to the appellants from Rs 20,11,000 to Rs 33,07,000. The amount was directed to be apportioned between the appellants, who are the wife and mother of the deceased. The liability has been fastened jointly and severally on
C the owner of the offending vehicle and the insurer.

3. The issue in the present appeal pertains only to the quantum of compensation.

D 4. The Tribunal proceeded on the basis that the monthly salary of the deceased proximate to the date of the accident (which took place on 21 June 2012) was Rs 9,000. The High Court determined the income at Rs 15,000 per month. Learned Counsel for the appellants submits that in the face of ample evidence produced by the appellants, the High Court was not justified in discarding the salary certificate for May 2012.

E 5. The deceased was a BSc in computers and was employed in a private company. The spouse of the deceased, who deposed in support of the claim for compensation, produced the salary certificates of the deceased and bank statements. The High Court has adverted to the salary certificates and the bank statements, which were relied upon by the appellants, in the course of its judgment. Exhibit P-8, which was a
F salary certificate for the month of May 2012 indicated that the salary of the deceased was Rs 23,419. However, the High Court held that the salary, as reflected in the said certificate, should not be accepted having regard to the salary certificates for the anterior period which had also been produced on the record, which showed a lower salary.

G 6. The Tribunal held that though the deceased had been employed with the Sauter Race Technologies Private Limited, the salary certificate that was produced was of Carrier Race Technologies Limited. This finding has been stressed upon by the learned counsel appearing on

H ¹ “Tribunal”

behalf of the insurer. On this aspect of the matter, the cross-examination of the claimant indicates that no effort was made by the insurer to discredit the salary certificate which was produced by the spouse of the deceased. In the course of her deposition, she explained that Carrier Race Technologies Limited was a sister concern. Salary certificates and bank statements were produced.

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7. Since the bank statements and the certificates were duly proved and marked, there was no reason or justification for discarding the salary certificate for the month of May 2012, which indicates that the net pay of the deceased was Rs 23,419. This is for the period proximate to the accident. The compensation awarded by the High Court must hence be enhanced in accordance with the legal principles which emerge from the decisions of this court. The compensation payable to the appellants is recomputed as follows:

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(i) Annual Income computed at the rate of Rs 23,419 per month	2,81,028	D
(ii) Less one third towards personal expenses	93,676	
(iii) Net income (I minus ii)	1,87,352	
(iv) Add future prospects of 40%	74,941	
(v) Total income	2,62,293	E
(vi) Total compensation (multiplier of 17)	44,58,981	
(vii) Add standard additions	70,000	
(viii) Total compensation payable	45,28,981	

8. In granting future prospects, the standard addition of Rs 70,000 and adopting a multiplier of 17, we are guided by the judgment of the Constitution Bench in **National Insurance Company Limited v Pranay Sethi**². There is no dispute in regard to the correctness of the multiplier applied by the High Court.

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9. In view of the above discussion, we direct that the appellants shall be entitled to a total compensation of Rs 45,28,981 rounded off to Rs 45.29 lakhs on which interest shall be payable at nine per cent per annum from the date of filing of the claim petition until payment.

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² (2017) 16 SCC 680

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- A 10. The enhanced amount shall be paid over in equal proportion to the appellants, together with accrued interest, if any.
11. The appeal stands allowed in the above terms. No order as to costs.
- B 12. Pending application, if any, stands disposed of.

Kalpana K. Tripathy

Appeal allowed.