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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.2613 of 2014 & 1825 of 2016 &
M.P.No.1 of 2014

Shriram General Insurance company Limited,
No.66, Thirumullai Pillai Road,
T.Nagar, Chennai - 600 017.

...Appellant in CMA.No.2613 of 2014 &
2nd respondent in CMA.No.1825 of 2016

Vs

1.P.Dhanalakshmi
2.K.Prabu
3.Udhayakumar @ Udhaya

...Respondents 1 to 3 in CMA.No.2613 of 2014 &
Appellants in CMA.No.1825 of 2016

4.A.Raja Mohammed

...4th Respondent in CMA.No.2613 of 2014 &
1st Respondent in CMA.No.1825 of 2016

(4th respondent in CMA.No.2613 of
2014 & 1st Respondent in
CMA.No.1825 of 2016 remained
exparte before the Tribunal and
hence notice is dispensed with)

COMMON PRAYER: Civil Miscellaneous Appeals filed under Section
173 of the Motor Vehicles Act, against the Judgment and Decree
in MCOP.No.858 of 2011 dated 18.04.2013 on the file of the Motor
Accident Claims Tribunal, VI Small Causes Court, Chennai.

For Appellant in CMA.No.2613
of 2014 as well as 2nd
respondent in CMA.No.
1825 of 2016 : Mr.B.Murugavel

For Respondents 1 to 3
in CMA.No.2613 of 2014
as well as the Appellants
in CMA.No.1825 of 2016 : Mr.K.Varadhakamaraj



COMMON JUDGMENT

CMA.No.2613 of 2014 has been filed by the Insurance Company and CMA.No.1825 of 2016 has been filed by the claimants challenging the very same award dated 18.04.2013 passed by the Motor Accident Claims Tribunal, VIth Court of Small Causes, Chennai in MCOP.No.858 of 2011.

2. Since both the appeals are arising out of the very same award, these appeals are disposed of by this common judgment.

3. Heard Mr.B.Murugavel, learned counsel for the Insurance Company and Mr.K.Varadhakamaraj, learned counsel for the claimants. Since the owner of the vehicle remained exparte before the Tribunal, notice to him is dispensed with by this court.

4. The Tribunal under the impugned award directed the Insurance Company to pay the claimants a compensation of Rs.6,73,000/- together with interest and costs as detailed hereunder:

Heads	Award Amount (Rs.)
Pecuniary loss	6,48,000/- (3000 x 12 x 18)
Funeral Expenses	5,000/-
Loss of love and affection	20,000/-
Total	6,73,000/-

5. The cause of the accident has not been disputed by the insurance company. The only issue that arises for consideration is that whether the quantum of compensation awarded by the Tribunal is a just compensation or not.

6. In the claim petition, the claimants have pleaded that the deceased Balamurugan was a owner cum driver of a tricylce and earning Rs.500/- per day at the time of the accident. Since no documentary evidence was produced by the claimants to prove the monthly income of the deceased, the Tribunal has fixed the monthly income of the deceased on notional basis at Rs.6,000/- per month. The accident happened in the year 2011. This Court is of the considered view that the notional monthly income fixed by the Tribunal for the deceased at Rs.6,000/- is low and it has to be enhanced to Rs.7,000/-. Accordingly, this Court enhances the notional monthly income of the deceased to Rs.7,000/- instead of Rs.6,000/- erroneously fixed by the Tribunal. The Tribunal has erroneously failed to award any compensation towards loss of future prospects of the claimants which they are legally



entitled to as per the decision of the Constitution Bench Judgment of the Hon'ble Supreme Court in the case of National Insurance Company Limited vs. Pranay Sethi and others reported in 2017 (16) SCC 680. Since the deceased was 19 years at the time of the accident, this Court awards loss of future prospects to the claimants at 40%. Since the deceased was a bachelor at the time of the accident, the Tribunal has rightly deducted 50% towards personal expenses of the deceased. Since the age of the deceased was aged 19 years at the time of the accident, the Tribunal has rightly adopted 18 multiplier for assessing the compensation towards pecuniary loss to the claimants. Accordingly, the compensation towards pecuniary loss is reassessed by this Court at Rs.10,58,400/- ($7000 + 40\% = 9800 - 50\% = 4900 \times 12 \times 18$) instead of Rs.6,48,000/- erroneously fixed by the Tribunal.

7. Insofar as the compensation awarded by the Tribunal under various other heads namely funeral expenses and loss of love and affection are concerned, the same is confirmed by this Court.

8. For the foregoing reasons, the compensation awarded by the Tribunal is enhanced to Rs.10,83,400/- from Rs.6,73,000/- in the following manner:

Heads	Amount awarded by this Court (Rs.)	Amount awarded by the Tribunal (Rs.)
Pecuniary loss	6,48,000/- ($3000 \times 12 \times 18$)	10,58,400/- ($7000 + 40\% = 9800 - 50\% = 4900 \times 12 \times 18$)
Funeral Expenses	5,000/-	5,000/-
Loss of love and affection	20,000/-	20,000/-
Total	6,73,000/-	10,83,400/-

9. In the result, the appeal CMA.No.2613 of 2014 filed by the insurance company is dismissed as it does not deserve any merit and the appeal CMA.No.1825 of 2016 filed by the claimants is partly allowed by enhancing the compensation from Rs.6,48,000/- to Rs.10,83,400/-. The Insurance Company who is the Appellant in CMA.No.2613 of 2014 is directed to deposit the amount awarded by this Court, after deducting the amount already deposited if any, together with interest from the date of claim till the date of deposit to the credit of MCOP.No.858 of 2011 and costs within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the respective share of award amount lying to the credit of MCOP.No.858 of 2011 to the bank account



of the claimants who are the Appellants in CMA.No.1825 of 2016 through RTGS within a period of one week thereafter. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

The VI Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai

Copy To

The Section Officer,
V.R.Section,
High Court of Madras.

+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.51116

C.M.A.Nos.2613 of 2014 & 1825 of 2016

VSN-II (CO)
RGA (15/11/2021)