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C.M.A.No.2727 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2727 of 2017

and

CMP No.15354 of 2017

M/s.Reliance General Insurance Co. Ltd.,
Reliance House, 6th Floor,
Nungambakkam,
Chennai – 600 006.

.... Appellant

Versus

G. Vijaya Thanapal (Since died)

1. V. Elizabeth

2. V. Evangelin Annaberyl

3. Ebenezer Paul

(Amendment carried out as per
order in MP No.2962 of 2012
dated 10.01.2013)

4. G. Rangadurai

.... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 16.02.2017 made in MCOP No.2700 of 2012 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant

: Mr.S. Arunkumar

For Respondents

: Mr.C. Munusamy for R1

R2 to R4 – Served – No appearance



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JUDGMENT

(Heard video conference)

This appeal has been filed by the Insurance Company challenging the Award dated 16.02.2017 passed by the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai in MCOP No.2700 of 2012.

2. Heard Mr.S. Arunkumar, learned counsel for the appellant / Insurance Company and Mr.C. Munusamy, learned counsel for the 1st respondent. Despite service of notice on the 2nd to 4th respondents, there is no representation on their side.

3. This Court has perused and examined the impugned award before the Tribunal.

4. The appellant /Insurance Company has challenged the impugned award on the following grounds :

a) There was no nexus between the case of the death of G. Vijaya Thanapal and the accident which happened on 21.04.2012. According to the appellant, the deceased did not die as a result of the injuries sustained by him due to the accident which happened on 21.04.2012.



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b) The quantum of compensation awarded by the Tribunal is excessive.

5. With regard to the first contention raised by the appellant, the Tribunal has rightly rejected the same by giving the following reasons :-

The Tribunal has considered the evidence of PW1 and Exs.P3 and P4, the Discharge summaries and Ex.P5-Medical bills amounting to Rs.11,48,177.50 and also given due consideration to the fact that the deceased died within three months from the date of the accident. As seen from the discharge summaries issued by the hospital, ever since the date of the accident, the deceased has been continuously getting medical treatment as an inpatient in the hospital. Only three days prior to the date of the death, the deceased was discharged from the hospital. After considering the evidence available on record and the nature of injuries sustained by the deceased and his continuous period of hospitalisation, it can be inferred that the death has happened only due to the injuries sustained by him due to the accident.

6. Insofar as the second contention raised by the appellant with regard to the quantum of compensation awarded by the Tribunal is



concerned excepting for modification of the compensation awarded by the Tribunal under the heads loss of consortium, loss of love and affection, loss of estate and funeral expenses are concerned, the compensation awarded by the Tribunal towards loss of pecuniary benefits at Rs.3,63,972/- and Rs.11,48,200/- towards medical expenses cannot be considered to be excessive as it has been awarded only in accordance with the medical bills provided by the claimants which have been marked as Exhibits before the Tribunal and the avocation and the age of the deceased as well as the year of the accident.

7. Insofar as the compensation awarded by the Tribunal towards loss of consortium at Rs.1,00,000/- is concerned, it is on the higher side as it is not in accordance with settled law which fixes the same at Rs.40,000/-. Accordingly, this Court reduces the compensation from Rs.1,00,000/- to Rs.40,000/- towards loss of consortium.

8. Insofar as the compensation awarded by the Tribunal towards loss of love and affection at Rs.1,00,000/- is concerned, it is also on the higher side and it has to be reduced, since there are only two children to the deceased, who are each entitled to Rs.40,000/- in accordance with



settled law. Therefore, this Court reduces the compensation towards loss of love and affection to Rs.80,000/- instead of Rs.1,00,000/- erroneously fixed by the Tribunal.

9. Similarly, the Tribunal has awarded a higher compensation of Rs.50,000/- towards loss of estate though the claimants are only entitled to Rs.15,000/- as per the settled law. Accordingly, this Court reduces the compensation towards loss of estate from Rs.50,000/- to Rs.15,000/-.

10. Similarly, the Tribunal has awarded a higher compensation towards funeral expenses at Rs.25,000/-, which is not in accordance with the settled law. In accordance with the settled law, this Court reduces the compensation towards funeral expenses to Rs.15,000/- instead of Rs.25,000/- erroneously fixed by the Tribunal.

11. For the foregoing reasons, the award of the Tribunal is hereby modified in the following manner :

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Amount reduced by this Court (Rs.)</i>
Loss of Pecuniary Benefits	3,63,972/-	3,63,972/-
Loss of Consortium	1,00,000/-	40,000/-



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Amount reduced by this Court (Rs.)</i>
Loss of Love and affection * Rs.40,000/- each	1,00,000/-	80,000/- *
Loss of Estate	50,000/-	15,000/-
Medical expenses	11,48,200/-	11,48,200/-
Funeral expenses	25,000/-	15,000/-
Total	17,87,172/-	16,62,172/-

12. In the result, the appeal filed by the appellant / Insurance Company, stands partly allowed by reducing the compensation from Rs.17,87,172/- to Rs.16,62,172/- as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

13a. The appellant / Insurance Company is directed to deposit the reduced award amount, as assessed by this Court together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of MCOP No.2700 of 2012 on the file of the Motor Accidents Claims Tribunal, (II Court of Small Causes), Chennai, within a period of four weeks from the date of receipt of a copy of this Judgment. It is made clear that the appellant /



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Insurance Company is permitted to withdraw excess amount, if any paid by them.

13b. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the respondents 1, 2 and 3 /claimants, as per the same ratio of apportionment made by the Tribunal, through RTGS, within a period of two weeks thereafter.

22.09.2021

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order

vsi2

To
1. The Judge,
Motor Accidents Claims Tribunal,
II Court of Small Causes, Chennai.

2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai – 104.



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ABDUL QUDDHOSE, J.

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