



.C.M.A.No.1022 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **24.02.2022**

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

C.M.A. No.1022 of 2020
and C.M.P.No.6433 of 2020

L&T General Insurance Company Limited
6th Floor A Wing, KGN Towers,
No.62, Ethiraj Salai,
Egmore, Opposite to DLF Building
Chennai-600105.

Now incorporatd with

HDFC Ergo General Insurance Company Limited
R.R.Towers, II Phase, 2nd Floor,
No.94/95, T.V.K. Industrial Estate,
Guindy, Chennai- 600032.
Respondent

...Appellant/2nd

Vs

1.S.Radhika
2.K.Sudhakar
3.Minor S.Sujitha

... Respondents 1 to3 /Petitioners

4.Abdullah

... 4th Respondents/1st Respondent



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PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, To against the Judgment and Decree made in MCOP.No.7546 of 2015 dated 19.08.2019 on the file of the Motor Accident Claims Tribunal II Court of Small Causes Chennai.

For Petitioner : Mr.M.B.Raghavan

For Respondent : M/s Ramya V.Rao [R1 to R3]
Not ready in notice [R4]

JUDGEMENT

The insurance company has challenged the award passed by the Motor Accidents Claims Tribunal (II Small Causes Court) Chennai, awarding a compensation of Rs.13,25,000/- for the death of a minor S.Sudharson. The claimants are the parents and sister of the deceased minor. The Tribunal below held negligence on the part of the 1st respondent's vehicle which is insured with the 2nd respondent insurance company and the quantum of compensation was arrived at as follows:



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2. Taking into consideration the age of the minor a sum

of Rs.5,000/- was fixed as the notional income to which 50% was added towards future prospects as a result of which the annual income was worked out to a sum of Rs.90,000/- and applying the multiplier of 18 the loss of dependency was fixed at a sum of Rs.8,10,000/-. A sum of Rs.3,00,000/- has been awarded under the head of loss of love and affection and Rs.2,00,000/- towards Filial consortium. Apart from this a sum of Rs.15,000/- towards funeral expenses.

3. The appellants case is that the addition of 50% as future prospects was on the higher side and that apart, a sum of Rs.5,00,000/- being awarded towards love and affection and Filial consortium was on the high side.

4. Heard both counsels.



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5. The notional monthly income of the deceased is confirmed at a sum of Rs.5,000/- fixed by the Tribunal to which future prospect of 40% is added instead of 50% and the annual income therefore works out to a sum of Rs.84,000/- and after the deduction of 50% towards personal expenses, the annual contribution of Rs.42,000/- would be available to the Family. As per the Judgement of Pranay Sethi's case reported in **2017 (16) SCC 680 - National Insurance Company Ltd. Vs. Pranay Sethi and Others** the amounts due under the conventional head is fixed at a sum of Rs.80,000/- towards love and affection and Rs.40,000/- towards Filial consortium. Therefore, the rate of compensation would be as follows:

Loss of dependency = Rs.6,30,000/-

Filial consortium & loss of love and affection = Rs.120,000/-

Funeral Expenses = Rs.15,000/-

loss of Estate = Rs.15,000/-

Total works out to a sum of Rs.7,80,000/-



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Tabulated form of reduced compensation is re-produced below:

Sr.No	Heads	Amount
1.	Loss of dependency	Rs.6,30,000/-
2.	Love and Affection & Filial Consortium	Rs.1,20,000/-
3.	Funeral Expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
	Total	Rs.7,80,000/-

6. Therefore, the Civil Miscellaneous Appeal is allowed and the compensation of Rs.13,25,000/- awarded by the Tribunal is hereby reduced to a sum of Rs.7,80,000/- together with interest @ 7.5 % per annum from the date of petition till the date of deposit. In all other aspects the award of the Tribunal is confirmed. The Insurance Company is directed to deposit the said amount (Rs.7,80,000/-) to the credit of M.C.O.P.No.7546 of 2015 together with interest @ 7.5% per annum from the date of claim petition till the date



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of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the claimants are permitted to withdraw the amount now determined by this Court, along with interest and costs, after adjusting the amount if any already withdrawn. The Insurance Company is permitted to withdraw the excess amount lying in the deposit to the credit of M.C.O.P.No.7546 of 2015 on the file of the Motor Accident Claims Tribunal II Court of Small Causes, Chennai, if the entire award amount has already been deposited by them. The proportion of allocation of shares adopted by the Tribunal shall stand confirmed. No costs. Consequently, the connected Miscellaneous petition is closed.

24.02.2022

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



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WEB COPY To

1. Motor Accident Claims Tribunal
II Court of Small Causes, Chennai.
2. The Section Officer,
VR Section,
High Court,
Madras.



WEB COPY



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P.T. ASHA, J,

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