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C.M.A.No.1142 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

CMA.No.1142 of 2023

1.S.Velu
2.V.Kumari

...Appellants

Vs.

1.Boomi

2.The Reliance General Insurance Co. Ltd,
Rasi Towers, 2nd Floor, 2nd Avenue,
Plot No.2054, Anna Nagar,
Chennai-600 040.

...Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree passed in M.C.O.P.No.217 of 2013 dated 03.12.2018 on the file of Motor Accident Claims Tribunal (V Small Causes Court), Chennai.

For Appellants: Mr.K.Varadha Kamaraj

For R-1 : No Appearance

For R-2 : Mr.P.Suresh Srinivasan.



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JUDGMENT

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This appeal is filed challenging the Award and Decree passed in M.C.O.P.No.217 of 2013 dated 03.12.2018 on the file of Motor Accident Claims Tribunal (V Small Causes Court), Chennai.

2. The appeal is filed by the claimant seeking enhancement of compensation. The parents of the deceased filed the claim petition seeking compensation of Rs.10,00,000/- for the death of their daughter Revathi, in the motor accident which occurred on 15.09.2012.

3. According to the claimants, the deceased was travelling in a Tata van bearing Registration No. TN 32-J-6414, the driver of the van drove the vehicle in a rash and negligent manner, due to which, the van capsized and their daughter sustained grievous injuries and she died on the spot. According to the claimants, the deceased was employed in Agile Electric Sub Assembly Private Limited and was earning Rs.8,000/- per month.

4. The first respondent remained ex-parte, before the Claims Tribunal and the second respondent Insurance company contested the claim petition and filed detailed counter denying the liability, negligence and quantum.



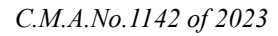
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5. Before the Claims Tribunal, the first claimant examined himself as P.W.1 and an eye witness as P.W.2 and marked Ex.P.1 to Ex.P.7 and on the side of the respondents, no evidence, either oral or documentary was filed.

6. The Claims Tribunal, on an assessment of entire evidence on record, and rendered a finding of negligence against the driver of the van and awarded a compensation of Rs.10,27,200/- along with 7.5% interest. Not satisfied with the compensation awarded by the Claims Tribunal, the claimants have filed the present appeal.

7. The learned counsel for the appellants submitted that the Claims Tribunal fixed the income of the deceased at Rs.6,000/- without taking into consideration Ex.P.5, the learned counsel further submitted that in the absence of contra evidence, the claim of Rs.8,000/- per month ought to have been accepted. The learned counsel did not dispute the award under other heads.

8. The learned counsel for the respondents, on the other hand submitted that the Award of the Tribunal was just, fair and reasonable and did not call for any interference in the appeal.



10. In view of the above discussion, the Award of the Tribunal is modified as follows:

<i>S.No</i>	<i>Various Heads</i>	<i>Award by Tribunal (amount in Rs.)</i>	<i>Award by this Court (amount in Rs.)</i>
1.	Loss of Dependency	9,07,200/-	12,09,600/-
2.	Loss of Love and Affection to the Petitioner each	80,000/-	80,000/-
3.	Loss of Estate	15,000/-	15,000/-
4.	Transport Expenditure (Ambulance)	10,000/-	10,000/-
5.	Funeral Expenses	15,000/-	15,000/-
	Total compensation is fixed at	10,27,200/-	13,29,600/-



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11. It is submitted by the learned counsel for the second respondent that appeal was filed with 855 days delay and delay was condoned on condition that the appellants shall forfeit interest for a period of 855 days. It is made clear that the appellant's shall not be entitled to interest for the delay period of 855 days.

12. It is submitted by the learned counsel for the appellants that the award passed by the Tribunal has already been deposited along with accrued interest and costs and therefore there shall be a direction to the second respondent Insurance company to deposit the balance of the enhanced compensation along with interest, less the interest for the delay period of 855 days, within a period of four (4) weeks from the date of receipt of copy of this Judgment. The claimants shall withdraw the same as per the apportionment fixed by the Claims Tribunal.

In the result, the appeal is partly allowed. There shall be no order as to costs.

06.06.2023

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Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No



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To

1.The V Judge, Motor Accidents Claims Tribunal,
Chennai.

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



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N.MALA.J.,
dsn

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