



C.M.A.No.2997 of 2

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN  
AND  
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

**C.M.A.No.2997 of 2021**

1.Vikas Sahni

2.Meenu Sahni

...Appellants

Vs.

1.Parameswari

2.The Oriental Insurance Co. Ltd.,  
T.P.Cell No.115/16, 2nd Floor,  
Oriental House, Pragasam Salai,  
Broadway, Chennai - 108.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 03.10.2018 made in MACTOP.No.4764/2015 on the file of the Motor Accident Claims Tribunal (Special Sub-Court No.1, Motor Accident Claims Petitions) Small Causes Court, Chennai.

For Appellants : Mr.F.Terry Chella Raja

For Respondents : Mr.M.J.Vijayaraghavan for R2

R1 - Exparte before the Tribunal



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## **J U D G M E N T**

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

The claimants, who are the parents of the Rohan Sahni, a student of Engineering aged about 20 years, who died in a motor accident that occurred on 21.02.2015 are on appeal, seeking enhancement of compensation awarded at Rs.15,97,000/-.

2.The claimants sought for compensation contending that when the deceased was riding a motor cycle as a pillion rider, the Hyundai car bearing Registration No.TN-47-P-0099 came in the opposite direction driven by its driver in a rash and negligent manner dashed against the motor cycle. As a result of the impact, the deceased was thrown of the vehicle, sustained fatal injuries and died on the spot. He was declared dead on arrival at the JIPMER Hospital, Puducherry. Terming negligence on the part of the driver of the car as a sole cause of the accident, the claimants sought for a compensation of Rs.50,00,000-/. The quantum was sought to be supported by the plea that the deceased was a very brilliant student and if he had been alive, he would have made it big in his profession as an Engineer.



3.The Insurance Company resisted the claim contending that the accident did not happen in the manner as suggested by the claimants and there was negligence on the part of the rider of the motor cycle, which also contributed to the accident. It was the further contention of the Insurance Company that the deceased being a student, there were several uncertainties in life and therefore, the compensation claimed at Rs.50,00,000/- is excessive.

4.At trial, the father of the deceased was examined as PW.1, one M.Rajendran, an Academic Executive from SRM University was examined as P.W.2 and one D.Karunagaran, an eye-witness was examined as P.W.3. Exs.P1 to P16 were marked. No evidence was let in on the side of the Insurance Company.

5.On the appreciation of the evidence of P.W.3 and contents of the First Information Report, which was marked as Ex.P1, the charge sheet marked as Ex.P3 and the Ex.P4 the rough sketch, the Tribunal concluded that the accident occurred due to the rash and negligent driving of the driver of the car and therefore, the Insurer namely the 2nd respondent / Insurance Company is liable to compensate the claimants.



6.On the quantum, the Tribunal took the monthly notional income at Rs.10,000/-, added 40% towards future prospects, deducted 50% towards personal expenses and arrived at the total loss of dependency at Rs.15,12,000//-. It awarded a sum of Rs.50,000/- towards loss of love and affection for both the claimants, Rs.15,000/- each towards loss of estate and funeral expenses and Rs.5,000/- towards Transportation. Thus, the total compensation awarded by the Tribunal worked out to Rs.15,97,000/-. The claimants are on appeal, complaining that the compensation awarded is far too low.

7.We have heard Mr. F.Terry Chella Raja, learned counsel for the appellants and Mr. M.J.Vijayaraghavan, learned counsel for the Insurance Company.

8.Mr. Terry Chella Raja, learned counsel appearing for the appellants would vehemently contend that the deceased was a very bright student and there was substantial demand for Computer Engineers in the year 2015 when the accident took place. Therefore, according to him, the deceased would have earned an attractive salary and hence, the fixation of



Rs.10,000/- as notional income is abysmally low.

WEB COPY 9. Contending contra, Mr.M.J.Vijayaraghavan, learned counsel appearing for the Insurance Company would submit that there are so many uncertainties in life and today most of the Engineers are unemployed. Therefore, according to the learned counsel, fixation of Rs.10,000/- is very reasonable and the same need not be interfered with. We have considered the rival submissions.

10. No doubt, there is over flooding of Engineering graduates and many of them remain unemployed. That by itself will not be a factor to deny compensation. The deceased was a 2nd year Engineering graduate, that too Computer Engineering, which is a flourishing field even today. There are lot of job opportunities in Computer Engineering both in India and outside India. Therefore, we find that fixation of notional income at Rs.10,000/- is low. At the same time, we cannot also accept the submission of the learned counsel for the appellants and fix an astronomical sum as the monthly notional income in order to arrive at the compensation of Rs.50,00,000/- as claimed by the claimants.



11.Looking at the over all circumstances and taking into consideration the prevailing situation, we fix the monthly notional income at Rs.15,000/-. If we add 40% towards future prospects, the monthly notional income would be Rs.21,000/-. The multiplier that is to be adopted is 18 and we will have to deduct 50% towards personal expenses. Thus, the calculated loss of dependency would be  $21,000 \times 12 \times 18 \times 1/2 = 22,68,000/-$ . The Tribunal has awarded a sum of Rs.50,000/- towards loss of love and affection for both the parents, which is enhanced to Rs.80,000/-. The awards for loss of estate, funeral expenses and transportation as awarded by the Tribunal are confirmed. Thus, the total compensation worked out to Rs.23,83,000/-.

12.In view of the above, this appeal is **partly allowed**. The award is modified and enhanced to Rs.23,83,000/- with 7.5% interest from the date of petition till date of payment. We find that this appeal has been filed with a delay of 417 days. The said period will be excluded in calculation of interest. The compensation is apportioned as follows:-

- i) The mother of the deceased will be entitled to Rs.13,83,000/-
- ii) The father of the deceased will get Rs.10,00,000/-.



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13.The Insurance Company will have to deposit the award amount, less the amount if any already deposited, within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit, the claimants are entitled to withdraw the same. The claimants will pay the Court fee payable in the appeal for the awarded compensation. No costs.

(R.S.M., J.) (N.S., J.)  
14.12.2023

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Internet:Yes

Index:No

Speaking

Nuetral Citation :No

To:-

The Motor Accident Claims Tribunal,  
Special Sub-Court No.1,  
Small Causes Court, Chennai.



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**R.SUBRAMANIAN, J.**  
**and**  
**N.SENTHILKUMAR, J.**

**KKN**

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