



C.M.A.No.1651 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1651 of 2020

And

C.M.P.No.12154 of 2020

M/s.The New India Assurance
Company Ltd.,
No.45, V Floor,
Moore Street,
Chennai – 600 001.

... Appellant

Vs.

1.T.Niveditha
2.Minor.Dhandavandini
3.Minor.Kathirkaman

Both minors are represented by their
Mother and Natural Guardian
T.Niveditha

4.M.Karthikeyan
5.K.Kantha
6.R.Rajendran
7.Syed Shahinsha

8.M/s.Reliance General
Insurance Company Limited,
Raj Towers, II Floor,
Plot No.2054, II Avenue,
Near G.R.T.,
Anna Nagar,
Chennai – 600 040.

... Respondents



C.M.A.No.1651 of 2020

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 08.11.2019 passed by the Hon'ble Motor Accidents Claims Tribunal (In the Court of the Special Sub Judge - II, Court of Small Causes) at Chennai and made in M.C.O.P.No.5612 of 2014.

For Appellant : Mr.J.Michael Visuvasam

For Respondents : Mr.S.Parthasarathi for R1 to R5
R6 – No Appearance
R7 – NRN
Mr.S.Arun Kumar for R8

J U D G M E N T

The second respondent Insurance Company before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed against the judgment and decree dated 08.11.2019 passed by the Motor Accidents Claims Tribunal (In the Court of the Special Sub Judge - II, Court of Small Causes) at Chennai, in M.C.O.P.No.5612 of 2014.

2.The brief facts of the case is that on 26.05.2015, at about 18.30 hours, the deceased Thiyagarajan was travelling in a Car

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C.M.A.No.1651 of 2020

bearing

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Registration No.TN-05-AF-2161 from Gingee to Chennai at Tindivanam at Tindivanam to Gingee Road near Melperadi Kuppam. At that time, a private Bus bearing Registration No.TN 25 D 8457 came from opposite direction in a rash and negligent manner and dashed against the car, due to which, the deceased died on the spot.

3. Thereafter, the dependants of the deceased Thiagarajan/ first respondent filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.99 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.26,98,000/- with interest at the rate of 7.5% p.a. from the date of numbering of the petition (27.08.2014) till the date of deposit and costs and directed the appellant Insurance Company to deposit the compensation. Aggrieved by the same, the appellant Insurance Company has filed this appeal.

4. The learned counsel appearing for the appellant submitted that the appellant has filed this appeal questioning the quantum of compensation awarded by the Tribunal. The learned counsel further



C.M.A.No.1651 of 2020

submitted that the without following the guidelines issued by the

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Hon'ble Apex Court in MANU/SC/1366/2017 [National Insurance Company Limited Vs. Pranay Sethi and others] and in Syed Sadiq case, awarded onerous compensation, which is not sustainable one.

5.The learned counsel appearing for the respondents 1 to 5/ claimants fairly submitted that the calculation made by the Tribunal is not in terms with the guidelines issued by the Hon'ble Apex Court in MANU/SC/1366/2017 [National Insurance Company Limited Vs. Pranay Sethi and others] and in Syed Sadiq case.

6.Heard the learned counsel appearing for the appellant Insurance Company as well as the learned counsel appearing for the respondents 1 to 5 and 8 and perused the materials available on record.

7.Admittedly, on 26.05.2015, at about 18.30 hours, the deceased Thiyagarajan was travelling in a Car from Gingee to Chennai at Tindivanam at Tindivanam to Gingee Road near Melperadi Kuppam. At that time, the private Bus belonging to the sixth



C.M.A.No.1651 of 2020

respondent and insured with the appellant came from opposite direction in a rash and

negligent manner and dashed against the car, due to which, the deceased died on the spot.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.22,68,000/- for loss of dependancy, Rs.40,000/- for loss of consortium, Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses, Rs.2,00,000/- for loss of love and affection, Rs.80,000/- for parental consortium, Rs.80,000/- for filial consortium and arrived at a total compensation of Rs.26,98,000/- with interest at the rate of 7.5%p.a. from the date of numbering of the petition (27.08.2014) till the date of deposit.

9.The accident and the manner in which the accident happened are not disputed. The negligence aspect is also not in dispute. The only dispute is that the calculation made by the Tribunal is not in terms with the guidelines issued by the Hon'ble Apex Court in MANU/SC/ 1366/2017 [National Insurance Company Limited Vs. Pranay Sethi and others] and in Syed Sadiq case and the learned



C.M.A.No.1651 of 2020

counsel appearing for the respondents 1 to 5 also conceded the same.

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10.The deceased was aged 39 years at the time of death. This Court fix the notional monthly income of the deceased as Rs.12,000/- and deduct $\frac{1}{4}$ towards his personal expenses. Hence, after deducting $\frac{1}{4}$ towards his personal expenses, the notional monthly income of the deceased comes to Rs.9,000/-. The correct multiplier to be adopted is 15. Hence, the actual loss of dependancy works out to Rs.16,20,000/- [Rs.9,000/- X 12 X 15 = Rs.16,20,000/-]. This Court is of the opinion that some amount has to be awarded for future prospects. Accordingly, this Court awards 40% of loss of dependancy for future prospects and the same works out to Rs.6,48,000/- [40% of Rs.16,20,000/- = Rs.6,48,000/-]. The amount awarded under the heads, loss of consortium, loss of estate and funeral expenses, in the opinion of this Court, are just and reasonable and the same are confirmed. The amount awarded under the head loss of love and affection, in the opinion of this Court is high and hence, the amount awarded under the head loss of love and affection is reduced to Rs.1,60,000/- from Rs.2,00,000/-. The amount awarded under the heads for parental consortium and for filial consortium, in the opinion



C.M.A.No.1651 of 2020

of this Court are not necessary and the same are deleted.

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11. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of dependancy	Rs.22,68,000/-	Rs.16,20,000/-
2.	Loss of consortium	Rs. 40,000/-	Rs. 40,000/-
3.	Loss of estate	Rs. 15,000/-	Rs. 15,000/-
4.	Funeral expenses	Rs. 15,000/-	Rs. 15,000/-
5.	Loss of love and affection	Rs. 2,00,000/-	Rs. 1,60,000/-
6.	Parental consortium	Rs. 80,000/-	---
7.	Filial consortium	Rs. 80,000/-	---
8.	Future prospects	---	Rs. 6,48,000/-
	Total	Rs.26,98,000/-	Rs.24,98,000/-

12. The respondents 1 to 5/ claimants are entitled to total compensation of Rs.24,98,000/- along with interest at the rate of 7.5% p.a. from the date of numbering of the petition (27.08.2014) till the date of deposit.

13. The civil miscellaneous appeal is partly allowed. The judgment and decree dated 08.11.2019 passed by the Motor Accidents Claims Tribunal (In the Court of the Special Sub Judge - II,



C.M.A.No.1651 of 2020

Court of

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Small Causes) at Chennai, in M.C.O.P.No.5612 of 2014, is modified to the above extent.

14.The appellant Insurance Company is directed to deposit the modified award amount before the Tribunal less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants/ respondents 1, 4 and 5 are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal. The respondents 2 and 3 are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal and on production of necessary proof with regard to their majority. If the respondents 2 and 3 are still minors, their shares shall be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until they attain majority and the interest derived from out



C.M.A.No.1651 of 2020

of the said share of the minor shall be paid to the first respondent/
mother every quarter to be utilized for the welfare of the said minors.

15.The civil miscellaneous appeal is partly allowed. No costs.
Consequently, the connected miscellaneous petition is closed.

01.12.2023

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal
(In the Court of the Special Sub Judge - II, Court of Small Causes)
at
Chennai.



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C.M.A.No.1651 of 2020

M.DHANDAPANI,J.
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C.M.A.No.1651 of 2020
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C.M.P.No.12154 of 2020



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C.M.A.No.1651 of 2020

01.12.2023