



C.M.A.No.2889 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 14.12.2022	Pronounced on 05.01.2023
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2889 of 2014

G.Saraswathy,
W/o.Govindasamy,
No.6/13, E.V.K.Sampath Salai,
Nanthivaram, Guduvanchery,
Kancheepuram.

... Appellant

Vs.

1.M/s.North South Logistics Service,
D.No.303, Gurudwara Road,
Gurgeon, Haryana State

2.ICICI Lombard General Insurance Company Limited,
No.162, Anna Salai,
Chennai 600 002.

... Respondents

*(R2 substituted as per the order dated 14.12.2022
made in C.M.A.No.2889 of 2014)*

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree made in MCOP.No.2241 of 2012 on the file of the Motor Accident Claims Tribunal, Chennai, III Judge, Small Causes Court at Chennai, dated 12th day of June 2014.



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For Appellant : Mr.T.G.Balachandran

For Respondents : Ms.R.Rathna Thara (for R2)

R1 - Exparte

J U D G M E N T

The Appeal has been filed against the Award and Decree passed in MCOP.No.2241 of 2012 on the file of the Motor Accident Claims Tribunal, Chennai/III Court of Small Causes, Chennai on 12.06.2014.

2.The claim Petitioner is the Appellant herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The claim Petitioner filed the above Appeal, seeking compensation for the death of his son viz., G.Bhaskar, in a road traffic accident occurred on 08.04.2012. The Tribunal has awarded a sum of Rs.5,88,000/- with interest at the rate of 7.5% and costs. Aggrieved against the same and seeking enhancement, she has preferred this Appeal.



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4. During the trial, on the side of the claim Petitioner, PW1 and PW2 were examined, Ex.P1 to Ex.P.6 were marked and on the side of the Respondents, none was examined and no documents were marked.

5. Heard the learned counsel for the claim Petitioner/Appellant and learned counsel for the 2nd Respondent/Insurance Company.

6. The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are not under challenge in this Appeal and hence, the findings rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are hereby confirmed.

7. Pending Appeal, the 2nd Respondent Bharati AXA General Insurance Company Limited, was acquired by ICICI Lombard General Insurance Company Limited and hence, the cause title has been amended by an order of this Court dated 14.12.2022.



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8.At the time of the accident, the deceased was aged about 22 years, driving an auto rickshaw, earning Rs.10,000/- per month. The Hon'ble Supreme Court in the judgment rendered in ***Syed Sadiq Vs. United India Insurance Company***, reported in **2014 (1) TNMAC 459**, fixed the monthly income at Rs.6,500/- for a vegetable vendor, who sustained injuries in the accident, which occurred in the year 2008. In the present case, since the accident occurred on 08.04.2012, a sum of Rs.8,000/- is fixed as monthly income of the deceased. Future prospects is fixed at 40%, following the ratio laid down by the Constitution Bench's judgment of the Honourable Apex Court in the case of ***National Insurance Company Limited V. Pranay Sethi and others***, reported in **2017 (2) TN MAC 609 (SC)**, accordingly, monthly income comes to Rs.11,200/- (8000 + 3200).

9.The deceased was a bachelor and hence, as per the judgment of the Hon'ble Supreme Court in the case of ***Sarla Verma & Others .Vs. Delhi Transport Corporation & another***, reported in **2009 (2) TNMAC 1 (SC)**, 50% has to be deducted towards personal expenses, which was rightly done by the Tribunal. After deducting 50% towards personal expenses, the loss of monthly



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contribution would be Rs.5,600/- (11200 x 50/100).

10. At the time of the accident, the age of the deceased is 22 years, as per the age of the deceased, proper multiplier is '18' and hence the pecuniary loss sustained by the claim Petitioner is re-assessed as follows:

$$\text{Rs.}5600 \times 12 \times 18 = \text{Rs.}12,09,600/-$$

11. The claim Petitioner is entitled for Rs.40,000/- towards loss of love and affection, Rs.15,000/- is awarded towards funeral expenses, Rs.15,000/- is awarded towards loss of estate and Rs.10,000/- is awarded towards transportation.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	1209600
2	Loss Love and affection	40000
3	Funeral expenses	15000
4	Loss of Estate	15000
5	Transportation	10000
	Total Compensation	1289600

In total, the claim Petitioner is entitled to a sum of Rs.12,89,600/- (Rupees twelve lakh eighty nine thousand and six hundred only) with interest at the rate



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of 7.5% per annum from the date of Petition till date of realisation.

12. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.5,88,000/- to Rs.12,89,600/- to the extent indicated above. No Costs.

(ii) the 2nd Respondent/Insurance Company is directed to deposit the award amount of Rs.12,89,600/-, with interest and costs before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, claim Petitioner is permitted to withdraw the entire amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) The appellant/claim Petitioner is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.



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05.01.2023

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

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To
The III Judge,
Motor Accident Claims Tribunal,
Court of Small Causes,
Chennai.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

C.M.A.No.2889 of 2014

Dated: 05.01.2023