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C.M.A.No.44 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2023

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.44 of 2021

and

C.M.P.No.345 of 2021

The Oriental Insurance Company Limited,
Represented by its Branch Manager,
Old No.29/B, New No.238, Arcot Road,
Jambubala Complex 1st Floor,
Vellore 4.

... Appellant

Vs.

1.T.Rajendiran, S/o.Thangavel Goundar

2.R.Shenbagavalli

W/o.T.Rajendiran

Both are residing at No.5/91/1, Kambatham Village,
Latheri Post, Katpadi Taluk,
Vellore District.

3.N.Gayathri,

W/o.D.Naveen,

Residing at No.58, Thennamara Street,
Vellore District.

4.S.Muthamil Moovendhan

S/o.P.Sivagnanam

Residing at No.6/18, Periyar Nagar,
Goodanagaram Road,
Gudiyatham,
Vellore District.

... Respondents



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Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 12.11.2019 in MCOP.No.1028 of 2017 on the file of the Motor Accident Claims Tribunal (I Additional District & Sessions Judge) at Vellore.

For Appellant : Ms.R.Sree Vidhya

For Respondents : Mr.S.Parthasarathy (for R1 & R2)

R3 & R4 - No appearance

J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 12.11.2019 passed in MCOP.No.1028 of 2017, on the file of the Motor Accident Claims Tribunal (I Additional District & Sessions Judge) at Vellore.

2.The Insurance Company is the Appellant herein. Challenging the award passed in MCOP.No.1028 of 2017, on the file of the Motor Accident Claims Tribunal (I Additional District & Sessions Judge) at Vellore, the Insurance Company preferred this Appeal on the point of quantum of compensation. For the sake of convenience, the parties are referred to as per



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their ranking before the trial Court.

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3.Heard the learned counsel for the Insurance Company and the learned counsel for the claim Petitioners.

4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the offending vehicle, insured with the 3rd Respondent/Insurance Company are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the offending vehicle, insured with the 3rd Respondent are hereby confirmed.

5.During the trial, on the side of the claim Petitioners, PW1 to PW3 were examined & Ex.P.1 to Ex.P.11 were marked and on the side of the Respondents, none was examined and no document was marked.

6.For the Pecuniary loss sustained by the claim Petitioners, they have filed Ex.P.6, Ex.P.7, Ex.P.8 & Ex.P.9. Based upon the oral evidences and



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documents, the Tribunal has fixed the age of the deceased at 25 years and adopted '18' as multiplier and fixed the monthly income at Rs.16,689/- and added 50% towards future prospects, half of the salary deduction has also been made towards personal expenses and in total a sum of Rs.33,14,500/- has been awarded by the Tribunal.

7.After going through the calculation made by the Tribunal, this Court re-fixes the pecuniary loss as follows:

Monthly income of the deceased	:	Rs.16,689/-
After adding 50% towards future prospects	:	Rs.25,033.5
After deducting 50% towards personal expenses	:	Rs.12,516.75
Annual income after applying 18 as multiplier	:	Rs.27,03,618/-

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	2703618
2	Parental/Filial consortium	80000
3	Loss of Estate	15000
4	Funeral expenses	15000
	Total Compensation	2813618
	Rounded off	2813700

In total, the claim Petitioners are entitled to a sum of Rs.28,13,700/- (Rupees



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twenty eight lakh thirteen thousand and seven hundred only) and the interest awarded by the Tribunal at the rate of 7.5% per annum is also confirmed.

8. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, reducing the compensation from Rs.33,14,500/- to Rs.28,13,700 /- to the extent indicated above. No Costs. Consequently, connected Miscellaneous Petition is closed.

(ii) the Insurance Company is directed to deposit the reduced award amount, with interest and costs before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made, the claim Petitioners are permitted to withdraw their share in the award amount with proportionate accrued interest and costs, as per the ratio of apportionment made by the Tribunal, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.



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(iv) the Insurance Company is permitted to withdraw the amount already deposited, less the reduced award amount, if any, with accrued interest.

02.02.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order
sai

To
The Motor Accident Claims Tribunal
I Additional District & Sessions Judge
at Vellore.



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RMT.TEEKAA RAMAN.J.

sai

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