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C.M.A.No.6 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2023

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.6 of 2023

and

C.M.P.No.58 of 2023

The Branch Manager,
TATA AIG General Insurance Company Limited,
2nd Floor, JP & Devi Jambukeswar Arcade,
No.69, Millers Road, Bangalore 560 052.
Karnataka State

... Appellant

Vs.

1.Ellammal (aged 45 years)
W/o.Mani

2.Mani (aged 48 years)
S/o.Chenappan

Both were resided at 2/130,
A.Murukkampatti Village and Post,
Karimangalam Taluk,
Dharmapuri District

and now residing at Senthil Nagar,
Collectorate Post, Dharmapuri,
Dharmapuri District.

3.Pushpa (aged 27 years)
D/o.Mani
2/159, Murukkampatti Village and Post,
Karimangalam Taluk, Dharmapuri District.



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4.Manikandan (aged 25 years)
S/o.Mani,
2/130, A.Murukkampatti Village and Post,
Karimangalam Taluk, Dharmapuri District.

5.M.Chand Pasha,
S/o.Mahaboob Saheb,
A88, 2nd Cross,
Upkar Solitare Anek AI Road, Attibele,
Bangalore 562 107.

... Respondents

Prayer : Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the award dated 21st day of April, 2022 made in MCOP.No.290 of 2020 on the file of Motor Accident Claims Tribunal (Special District Court), Dharmapuri.

For Appellant : Mr.K.Vinod

For Respondents : Mr.M.Selvam (for 1 to 4)

J U D G M E N T

The Appeal has been filed against the award dated 21.04.2022 made in MCOP.No.290 of 2020 on the file of Motor Accident Claims Tribunal (Special District Court), Dharmapuri.



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2.Mr.M.Selvam, learned counsel takes notice on behalf of Respondents 1 to 4 (Caveators). By consent of the parties, the Appeal is taken up for final disposal.

3.The Insurance Company is the Appellant herein, challenging the award granted in MCOP.No.290 of 2020, dated 21.04.2022, on the file of the Motor Accident Claims Tribunal (Special District Court), Dharmapuri, on the ground of quantum of compensation.

4.For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

5.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 Insurance Company are not in dispute and accordingly the same are hereby confirmed.

6.Heard the learned counsel for the Insurance company and the learned



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counsel for the claim Petitioners.

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7.As per Ex.P.9/Insurance policy, the vehicle was having valid policy at the time of the accident and therefore, the Tribunal has rightly held that both the owner of the vehicle and insurer of the vehicle are jointly and severally liable to pay the compensation.

8.Learned counsel for the Insurance company would contend that since the deceased is a bachelor, the deduction ought to have 1/2 and not 1/3 and the same is hereby coupled with 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)**. As per the Constitution Bench judgment of the Hon'ble Apex Court in the case of *National Insurance Company Limited Vs. Pranay Sethi and others*, reported in **2017 (2) TN MAC 609 (SC)**, the family of the deceased is entitled for 40% of the income on the ground of future prospects. Multiplier adopted by the Tribunal is hereby confirmed. The notional montly income of the of the deceased was fixed at Rs.9,000/-, who is a self employed person and therefore, notional income is assessed at Rs.12,600/-



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(Rs.9,000/- + Rs.3,600/-). Accordingly the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$\text{Rs.12600} \times 12 \times 17 \times 1/2 = \text{Rs.12,85,200/-}$$

9.The amount awarded by the Tribunal towards loss of filial consortium to Petitioners 1 & 2, loss of love and affection to Petitioners 3 & 4, loss of estate, funeral expenses, medical expenses are just and proper and the same are hereby confirmed.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	1285200
2	Loss of filial consortium to the Petitioners 1 & 2	80000
3	Loss of love and affection to the Petitioners 3 & 4	80000
4	Loss of Estate	15000
5	Funeral expenses	15000
6	Medical expenses	132000
	Total Compensation	1607200

In total, the claim Petitioners are entitled to a sum of Rs.16,07,200/- (Rupees sixteen lakh seven thousand and two hundred only) and the interest awarded by the Tribunal at the rate of 7.5% per annum from the date of petition is also



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confirmed.

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10. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, reducing the compensation from Rs.20,35,600/- to Rs.16,07,200/- 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) out of the reduced award amount, the claim Petitioners 1 & 2 are entitled to Rs.4,50,000/- and the claim Petitioners 3 & 4 are entitled to Rs.3,53,600/- each.

(iv) the claim Petitioners 1 & 2 are permitted to withdraw a sum of Rs.3,00,000/- each with proportionate accrued interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal, their remaining share amount of Rs.1,50,000/- shall be invested in



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fixed deposit in a nationalised bank for a period of 3 years.

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(v) the claim Petitioners 3 & 4 are permitted to withdraw 50% of their share amount with proportionate accrued interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal, their remaining share amount of 50% shall be invested in fixed deposit in a nationalised bank for a period of 3 years.

06.01.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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To

The Presiding Officer,
Motor Accident Claims Tribunal (Special District Court),
Dharmapuri.



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RMT.TEEKAA RAMAN.J,

sai

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Dated: 06.01.2023