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CMA.No.2853 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.2853 of 2023

The United India Insurance Co. Ltd,
Motor 3rd Party Cell, Regional Office,
No.134, Greaves Road, Chennai – 600 006.

... Appellant

-Vs-

1.J.Jayalakshmi
2.T.Jeyakumar
3.T.Karthick Raja

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 8-8-2023 made in M.C.O.P.No.1152 of 2017 on the file of the Motor Accidents Claims Tribunal (Special Sub Judge No.1/Court of Small Causes), Chennai.

For Appellants	: Mr.D.Bhaskaran
For R1 & R2	: Mr.S.Sankaralingam
For R3	: Notice D/w. Vide order dt.27.11.2023



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JUDGMENT

On 16.01.2017, young Arun was killed when a motor cycle bearing Regn.No.TN 69 AR 3574, which he was riding at the relevant time, was knocked down by a bus bearing Regn.No.PY 01 CL 0655, belonging to the first respondent and insured with the second respondent. Seeking compensation, his parents approached the Motor Accident Claims Tribunal (Special Sub Judge No.1/Court of Small Causes), Chennai with MCOP.No.1152 of 2017.

2.Arun was stated to be pursuing his 3rd year Hotel Management Studies at Amirta International Institute of Hotel Management, Chennai. The Tribunal had fixed his notional monthly income at Rs.10,500/-, to which it added another 40% towards future prospects of increase in income and applied 18 as the multiplier and deducted 1/2 towards his personal expenditure and awarded a compensation of Rs.15,87,600/- under the head of loss of dependency. Including the compensation payable under other conventional heads, the Tribunal had arrived at a total compensation of Rs.17,02,600/-, from which it deducted 20% towards the contributory



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negligence of the victim, as he he did not possess a valid driving license at the relevant time. Aggrieved by the perceived inadequacy of the compensation, the claimants are now before this Court with this appeal.

3.Heard both sides.

4.The learned counsel for the appellant submitted that the victim of the accident was not having a valid license at the time of the accident and further, the victim had crossed the white line and come on the line of motion of the ongoing bus before it. Therefore, the percentage of negligence on the part of the victim of the accident should be fixed at 35%.

5.Heard both sides and perused the documents on record.

6.This Court consider Rs.10,500/- as fixed by the Tribunal as the notional income is atrociously low. Accordingly, this Court fixes the notional monthly income at Rs.12,000/-, to which it adds another 40% towards future increase in income, applies 18 as the multiplier and deducts 1/2



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from the said sum towards the personal expenditure of the victim and arrives at a value of dependency at Rs.18,14,400/-. Retaining the other conventional heads of compensation, the total compensation is determined at Rs.19,29,400/-. Further, this Court considers that it would be appropriate if 35% of it is deducted towards the contributory negligence of the victim and after adjusting the same, the net value of compensation is arrived at Rs.12,54,110/-. The break up is as below;

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	15,87,600/-	18,14,400/-	Enhanced
2.	Loss of consortium	80,000/-	80,000/-	Confirmed
3.	Loss of Estate	15,000/-	15,000/-	Confirmed
4.	Funeral expenses	15,000/-	15,000/-	Confirmed
5.	Transport expenses	5,000/-	5,000/-	Confirmed
Total		17,02,600/-	19,29,400/-	
Deducting towards Contributory Negligence		13,62,100/- (20%)	12,54,110/ (35%)	Reduced by 1,07,990/-



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7.To conclude, this appeal is allowed and the compensation amount is decreased from Rs.13,62,100/- to Rs.12,54,110/-, together with interest at 7.5% per annum, from the date of petition till the date of deposit. The appellant is now required to deposit the entire compensation amount now determined by this Court with interest at 7.5%, less any amount already deposited, within a period of six (6) weeks from the date of receipt of a copy of this Judgment. The enhanced portion of the compensation is required to be apportioned in the same ratio in which the Tribunal has apportioned the compensation. On such deposit, the claimants are permitted to withdraw the award amount, now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. No costs.

18.12.2023

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N.SESHASAYEE, J.,

Tsg

To

- 1.The Motor Accident Claims Tribunal,
Special Sub Judge No.1/Court of Small Causes,
Chennai.
- 2.The Section Officer,
V.R.Section, High Court, Madras.

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