



C.M.A.No.3940 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2023

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.3940 of 2019

and

C.M.P No.22361 of 2019

M/s.Reliance General Insurance Co. Ltd.,
Rai Rower, 2nd Tower, Plot No.2054
2nd Avenue, Anna Nagar,
Chennai-40.

... Appellant

..Vs..

1.V.Radha @ Radhakrishnan
2.R.Jagadha
3.G.Punniakotti

... Respondents

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP No.4327 of 2014, dated 13.10.2017 on the file of the Motor Accident Claims Tribunal / Chief Judge, Small Causes Court, Chennai.

For Appellant

: Mr. V.Bharathidasan
For M/s.S.Arun Kumar

For Respondents

: No Appearance



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JUDGMENT

WEB COPY The appeal on hand is filed against the judgment and decree dated 13.10.2017 passed in MCOP No.4327 of 2014, on the file of the Motor Accident Claims Tribunal/Chief Judge, Court of Small Causes, Chennai.

2. The Reliance General Insurance Company Limited is the appellant, who filed this appeal questioning the quantum of compensation.

3. The learned counsel appearing on behalf of the appellant/Insurance Company mainly contended that the quantum of compensation granted by the Tribunal is exorbitant and the principles settled in the case of **National Insurance Company Ltd., v. Pranay Sethi & others** reported in **2017(2) TN MAC 609 (SC)** by the Apex Court has not been followed by the Tribunal. The compensation granted under various heads are on the higher side and based on that, the appellant/Insurance Company has chosen to file the present appeal. The Tribunal has erroneously granted future prospects and adopted 18 multiplier which is wrong. This apart, the age of the deceased at the time of the death is 24 years. Thus, taking note of the fact



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that the age of the deceased was 24 years, 40% future prospects alone is to be ordered. Contrary, the Tribunal has ordered 50% future prospects which is erroneous. Thus, the compensation awarded is exorbitant. It is further stated that the monthly income of the deceased fixed by the Tribunal at Rs.9,000/- is also improper. The claimants have not submitted any proof to establish the income of the deceased. In the absence of any such acceptable document, the Tribunal ought not to have fixed the monthly income of the deceased as Rs.9,000/-. For the aforesaid reasons, the award is liable to be scrapped.

4. The respondents 1 & 2/claimants has not entered appearance before this Court.

5. The accident occurred on 22.12.2013 at 3.30 p.m., at Mayor Sundaram Street, G.N.Chetty Road Junction, Teynampet, Chennai. The R4 Pondy Bazaar Police Station registered a case in Crime No.699 of 2013. The deceased R.Veeraraghavan was proceeding in his two wheeler bearing Registration No.TN 07 BW 0451 at Mayor Sundaram Street, G.N.Chetty



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Road Junction, Teynampet towards west to east direction. Due to the accident, he sustained fatal injuries all over the body and died on the spot.

Thereafter, the claim petition was filed by the father and mother of the deceased. The Tribunal adjudicated the issues with reference to the documents as well as the evidences produced by the respective parties.

6. As far as the negligence aspect is concerned, the Tribunal has considered the contentions made in the FIR and as well as the oral evidence. There is no contra evidence to that effect. Thus, the Tribunal has arrived a conclusion that the accident had occurred due to the rash and negligent driving of the driver of the third respondent Water Tanker Lorry. Accordingly, the Tribunal has awarded the quantum of compensation. Undoubtedly, the Tribunal considered all these aspects. Even the judgment of the **National Insurance Company vs. Pranay Sethi and others**, has also been considered by the Tribunal. Though the Tribunal has treated the age of the deceased as 24 years, 50% future prospects was granted by the Tribunal instead of 40%, which is erroneous in law.



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7. The learned counsel appearing on behalf of the appellant/Insurance

Company relying the documents, viz., Ex.P4 postmortem certificate and Ex.P12 driving license of the deceased could able to establish that the age of the deceased at the time of the accident was 24 years. Thus, the Tribunal has fixed the age of the deceased as 24 years at the time of the accident. But, the future prospects granted are not in accordance with the principles laid down in the case of **Sarla Verma and others v. Delhi Transport Corporation and another** reported in **2009(2) TN MAC 1 (SC)**. As far as the multiplier is concerned, considering the age of the deceased, the Tribunal is right in fixing the multiplier as 18. As per the decision of the Hon'ble Supreme Court in Pranay Sethi judgment referred to supra, the respondents 1 & 2/claimants are entitled to adequate compensation under the head "filial consortium". In view of the fact that the Tribunal has erroneously awarded the compensation under the heads of love and affection and funeral expenses, the award of compensation is to be modified. The Tribunal has erroneously failed to award any compensation towards loss of estate which they are legally entitled to as per the settled practice. Accordingly, a sum of Rs.15,000/- is awarded as compensation to



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the claimants towards loss of estate. Thus, this Court is inclined to modify

the compensation granted by the Tribunal as detailed hereunder:

1) Loss of Dependency Rs.9000 x 40% (Future prospects) (Rs.3600) = 12600-50% =6300 x 12 x 18	:	Rs.13,60,800/-
2) Filial Consortium to father and mother (Rs.40,000 x 2)	:	Rs. 80,000/-
3) Loss of Estate	:	Rs. 15,000/-
4) Funeral Expenses	:	Rs. 15,000/-
5) Transport charges	:	Rs. 5,000/-
		----- Rs.14,75,800/- -----

8. In the result, this appeal is partly allowed. The Respondent Transport Corporation is directed to deposit the modified award amount i.e, Rs.14,75,800/- along with interest at the rate of 7.5% per annum and costs,



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after deducting the amount already deposited, if any, to the credit of MCOP.No.4327 of 2014 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the respective shares of award amount as per the ratio apportioned by the Tribunal to the bank accounts of the respondents 1 & 2/claimants along with accrued interest through RTGS within a period of two weeks thereafter. The appellant/Insurance Company is directed to pay necessary court fee, if any. No costs. Consequently, connected Miscellaneous Petition is closed.

02.01.2023

Index:Yes/No
Speaking/Non-speaking Order

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A.A.NAKKIRAN, J.
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To

- 1.The Chief Judge
Court of Small Causes
(Motor Accidents Claims Tribunal),
Chennai.
- 2.The Section Officer
V.R.Section, High Court of Madras.

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