



C.M.A.(MD)No.648 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2023

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

C.M.A.(MD)No.648 of 2020

and

C.M.P.(MD)Nos.6569 of 2020 and 2805 & of 2023

M/s.Reliance General Insurance Company Limited,
Rep.by its Divisional Manager,
No.128, Sri Lakshmi Complex,
I-Floor, Bharathi Street,
Omalur Main Road,
Swarnapuri, Salem,
Salem Taluk, Salem District.

...Appellant

/Vs./

1.K.Sumathi
2.M.K.Surya Devi
3.Minor M.K.Priyanka
4.P.Sekar

...Respondents

[Minor petitioner rep.by mother and guardian 1st respondent]

PRAYER:- Civil Miscellaneous Appeal - filed under Section 173 of the Motor Vehicles Act, to set aside the fair and decretal order dated 14.10.2019 made in M.C.O.P.No.78 of 2019 on the file of the Motor Accident Claims Tribunal (Additional District Judge), Karur and allow this Civil Miscellaneous Appeal.



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For Appellant : Mr.S.Srinivasa Raghavan
For R1 to R3 : Mr.L.Prabakaran
for Mr.K.Balasubramani
For R4 : No Appearance

JUDGMENT

(Judgment of the Court was delivered by **DR.ANITA SUMANTH , J.)**

This appeal has been filed by the Reliance General Insurance Company Limited, challenging order dated 14.10.2019 passed by the Motor Accident Claims Tribunal (Additional District Judge), Karur in M.C.O.P.No.78 of 2019.

2.The core ground upon which the appeal has been preferred is that the Tribunal ought not to have applied multiplier 11 uniformly in deciding the compensation and instead ought to have adopted split multiplier/service multiplier method. Though some other grounds also figure in the grounds of appeal, this is the only effective ground.

3.The claimants before the Tribunal were the widow and two daughters, one of whom is a minor, of late M.Kanagaraj (deceased). The deceased had been driving a TVS-XL motorcycle on 11.09.2014 on TNPL Road, Velayuthampalayam. While so, he had encountered a lorry driving on the same road, that had shifted suddenly in the middle of the



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road without any provocation. The motorcycle thus crashed into the lorry and on account of this accident, the deceased had sustained grievous injuries and was hospitalized for several months. He passed away on 07.05.2015 aged 53 years.

4.The claimants/respondents in appeal, approached the Tribunal seeking compensation and in the award passed on 04.10.2019, their claim had been accepted, the Tribunal applying multiplier 11 in determining the compensation payable. The computation is as follows:

S.No.	Heads	Amount
1.	Loss of income (Rs.54,201-1/3=Rs.16,067/- Rs.36,134+15% future prospects- Rs.5,420/- =Rs.42,554/- 10% for Income Tax -Rs.4,155/ Rs.37,999*12*11)	Rs.49,36,668/-
2.	Loss of consortium to the first claimant	Rs. 40,000/-
3.	Loss of love and affection to claimants 1 & 2 – each Rs.25,000/- third claimant Rs.50,000/-	Rs. 1,00,000/-
4.	Loss of belongings	Rs. 15,000/-
5.	Funeral Expenses	Rs. 15,000/-
6.	Medical Bills under Ex.B17	Rs. 1,54,053/-
7.	Medical Bills under Ex.B18	Rs. 16,457/-
	Total	Rs.52,77,178/-



5.The appeal has been filed only on the aspect of quantification of liability and not at all on liability itself. On the application of the multiplier, Mr.Srinivasa Raghavan, who appears for the appellant would fairly draw attention to the judgment of the Hon'ble Supreme Court in the case of *R.Valli and others vs. Tamil Nadu State Transport Corporation Ltd.*, [2022 5 SCC 107] that has settled the position that application of split multiplier is not an appropriate method for determining compensation.

6.In the case of *Sarala Varma (Smt) and others vs. Delhi Transport Corporation and another* [(2009) 6 SCC 121], it had been held that the proper basis for selection of a multiplier would be the age of the deceased at the time of death and not the number of years left in employment.

7.The above judgment was affirmed in *Reshma Kumari and others vs. Madan Mohan and another* [2013 (9) SCC 65] and the ratio of both the aforesaid judgments have been are confirmed by the Constitution Bench of the Hon'ble Supreme Court in *National Insurance company limited vs. Pranay Sethi and others* [2017 (16) SCC 680], the relevant portion of which reads as follows:



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“11.Thus, we find that the method of determination of Compensation applying two multipliers is clearly erroneous and run counter to the judgment of this Court in *Pranay Sethi*, affirming the judgment in *Sarala Varma*. Since the deceased was 54 years of age on the date of incident, therefore, the suitable multiplier would be 11 as per the judgment of this Court in *Sarala Varma* approved by this Court in *Pranay Sethi*.”

8.Inter alia, there was yet another line of judgments where the Court had applied the split multiplier method, i.e., one multiplier up to the date of retirement and another multiplier after the date of retirement. Though judgments were rendered per incuriam pursuant to the judgement in *Pranay Sethi's* case and a clarification set out in this regard at paragraph 9 of the judgment in *R.Valli and others* (supra).

9.In the case of *R.Valli*, the Hon'ble Supreme Court draws an analogy from the judgment in *United India Insurance Company Limited vs. Satinder Kaur @ Satwinder Kaur and others* [2020 SCC online SC 410] where it was held that it is the age of the deceased that would be taken into account for application of the multiplier. Thus, in such circumstances, it would be irrelevant as to whether the deceased were a bachelor or a married man as the relevant consideration would only be his age.



10. Thus, and in conclusion, the Bench found in *R. Valli*, that the method of determining compensation applying two multipliers was erroneous and a uniform multiplier was to be applied in all cases. With this, the appeal of the Insurance Company is found to be bereft of merit and liable to be dismissed and we do so.

11. By virtue of the above conclusion, the respondents would, in fact, be entitled to a higher quantification of compensation. In our considered view, this is perfectly in order, as and Mr. Srinivaasaraghavan fairly agrees, the purpose of the present litigation is to arrive at a fair and proper determination of compensation to the legal heirs of the deceased.

12. A Memo dated 14.07.2023 has been filed by the appellant determining the compensation payable, as below:

Memorandum of Calculation filed by the appellant:

<i>a. Monthly income</i> <i>(Ex.P14)</i>	: Rs.54,201/-
<i>b. Multiplier</i>	: 11
<i>c. Loss of future prospects</i>	: 15% -Rs.8,130.15
<i>d. Monthly salary (A+B)</i>	: Rs.54,201+8,130.15= Rs.62,331.15
<i>e. Annual Income</i>	: Rs.62,331.15*12= Rs.7,47,973.80
<i>f. Deduction for personal expenses</i>	: 1/3
<i>g. Annual income after deduction</i>	: Rs.7,47,973.80*2/3 (contribution)



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<i>h.Loss of annual income</i>	<i>: Rs.4,98,649.20*11</i>
<i>I.Funeral expenses</i>	<i>: Rs.25,000/-</i>
<i>Loss of life estate</i>	<i>: Rs.15,000/-</i>
<i>Loss of consortium and love and affection (Wife and 2 children)</i>	<i>: Rs.1,20,000/-</i>
<i>j.Total loss of income and general damages</i>	<i>: (54,85,141.20+25,000+ 15,000+1,20,000=56,45,141.20</i>

13. At the time of admission on 04.01.2021, the Insurance Company was directed to deposit the compensation awarded in entirety, and this order is stated to have been complied with. There is thus now, a direction to the Appellant to deposit the amount of compensation as computed as above, less the amount already deposited, within a period of four weeks from date of receipt of this order to the credit of M.C.O.P.No. 78 of 2019.

14.Respondents 1 and 2 may thereafter take necessary steps for withdrawal of the same before the Tribunal in the same proportionate as set out by the Motor Accident Claims Tribunal (Additional District Court), Karur in the penultimate paragraph of the order, that is second half of internal page No.14 of the order dated 14.10.2019, by production of requisite documents, subject to remittance of court fee, if any, in respect of the enhanced compensation.



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15.The compensation of the minor claimant shall be kept in a Fixed Deposit in any Nationalized Bank, till she attains majority. The mother / guardian of the minor is permitted to withdraw the interest accrued thereon once in three months directly from the bank.

16.No costs. Consequently, connected miscellaneous petitions are closed.

**[A.S.M.J.,] & [R.V.J.,]
14.07.2023**

NCC :Yes/No
Index :Yes/No
Internet :Yes
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To

1.Motor Accident Claims Tribunal/

Additional District Court, Karur.

2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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Order made in
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Dated:
14.07.2023