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CMA.No.2887 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2887 of 2022

1.Karuppan
2. Sundari

... Appellants

VS.

1. A. Raja
2. The New India Assurance Company Limited,
D.O. 85/P, Market Road, 2nd Floor,
K.R.A. Building, Thanjavur 613 001.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against Award dated 08.03.2021 passed in M.C.O.P.No.366 of 2014 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri.

For Appellants : Mr. V. Sakkarapani
R1 : No appearance
For R2 : Mr. M. Krishnamoorthy

J U D G M E N T

The appellants are the claimants in M.C.O.P.No.366 of 2014 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri. They filed the claim petition under Section 166 of the Motor



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Vehicles Act, 1988 seeking compensation of Rs.40,00,000/- for the death of their son Anandagopal in a road accident that took place on 28.02.2013.

2. The brief case of the appellants / claimants is as follows :

2.1. On 28.02.2013 Anandagopal (deceased) was riding his bicycle on Srinivasapillai Road and when he was nearing Railway underground bridge opposite Saraswathi Cafe, a mini bus bearing Registration Number TN-49-AD-6017, belonging to the first respondent, hit the bicycle, as a result of which Anandagopal fell down and sustained injuries all over his body. He was immediately rushed to the Government Medical College Hospital, Thanjavur. However, he succumbed to injuries on the same day.

3. According to the claimants, the rash and negligent driving of the driver of the mini bus bearing Registration Number TN-49-AD-6017 was the cause of the accident and that since the said bus was insured with the second respondent, the New India Assurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation



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to them.

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4. In the Tribunal the first respondent remained absent and was set *ex parte*. The second respondent resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

5. The Tribunal after analysing the evidence on record awarded a compensation of Rs.22,52,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, vide its orders dated 08.03.2021. The Tribunal also held that the liability of the respondents are joint and several.

6. Aggrieved over the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

7. Heard Mr. V. Sakkarapani, learned counsel appearing for the appellants and Mr. M. Krishnamoorthy, learned counsel for the second respondent.



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8. Mr. V. Sakkarapani, learned counsel appearing for the appellants contended that though the deceased was a Research Scholar in Chemistry, the Tribunal had fixed his notional monthly income as Rs.15,000/- which, according to him, is on the lower side. He therefore, prayed for enhancement of notional monthly income of the deceased.

9. Per contra, Mr. M. Krishnamoorthy, learned counsel appearing for the second respondent/Insurance Company contended that the Award passed by the Tribunal is based on the well laid down principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed.

10. It is seen from the records that the deceased had participated in various seminars and conferences and had even presented papers in one of the State Level Seminars as is evidenced by Ex.P15 to Ex.P18. Ex.P9, the Identity Card issued by Sri Pushpam College, Poondi, shows that the



deceased was a Research Scholar in Chemistry. In the circumstances, this Court is of the opinion that fixing notional monthly income of the deceased at Rs.17,000/- would meet the ends of justice. As per the decision of the Supreme Court of India in *National Insurance Co. vs Pranay sethi and others* reported in **2017 (2) TNMAC 601**, 40% is added towards future prospects of the deceased. The deceased died as a bachelor and hence, 50% is deducted towards his personal expenses. The deceased was aged 26 years on the date of the accident and the proper multiplier to be adopted in the instant case is 17 as per the decision rendered in *Sarla Verma and others vs. Delhi Transport Corporation and another* reported in **(2009) 6 SCC 121**.

Calculation

Notional Income = Rs.17,000/-

40% Future Prospects = Rs.23,800/-

After 1/2 deduction = Rs.11,900/-

Loss of dependency

= Rs.11,900/- x 12 x 17

= Rs.24,27,600/-



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In addition to that the claimants are entitled to Rs.80,000/- (40,000 x 2), Rs.15,000/- and Rs.15,000/- for Loss of Consortium, Loss of Estate and Funeral Expenses respectively as per the decision in ***National Insurance Co. vs Pranay sethi and others*** (cited supra). Thus, the claimants are entitled to a total compensation of Rs.25,37,600/- (24,27,600 + 80,000 + 15,000 + 15,000= 25,37,600) as shown in the following tabular column.

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court (Rs.)</i>
1.	Loss of dependency	24,27,600/-
2.	Loss of consortium (Rs.40,000/- x 2)	80,000/-
3.	Funeral expenses	15,000/-
4.	Loss of Estate	15,000/-
Total		Rs.25,37,600/-

This amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.



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11. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.22,52,000/- to Rs.25,37,600/-.
- iii. The appellants / claimants are directed to pay court fee for the enhanced compensation amount, if any, within a period of four weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.
- iv. The second respondent, the New India Assurance Company Limited, Thanjavur, is directed to deposit the enhanced compensation amount i.e., Rs.25,37,600/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.366 of 2014 on the file of the Motor Accidents Claims Tribunal, Special District Court, Dharmapuri, within a period of four weeks from the date of receipt of a copy of this order.



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y. On such deposit being made, the appellants / claimants are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

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Index : Yes/No
Speaking/Non-speaking order

bga

To

- 1.Motor Accidents Claims Tribunal, Special District Court, Dharmapuri,
- 2.The New India Assurance Company Limited,
D.O. 85/P, Market Road, 2nd Floor,
K.R.A. Building, Thanjavur 613 001.
- 3.The Section Officer, VR Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

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