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CMA.No.1067 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1067 of 2020 and
C.M.P.No.6792 of 2020

M/s.TATA AIG General
Insurance Company Limited,
No.1, Ethiraj Salai, Egmore,
Chennai - 600 008.

... Appellant

vs.

1. Rajeshwari
2. Ashok Kumar
3. Shanthi
4. Parvathi
5. V.Singara Mudaliyar
6. Vijayalakshmi

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award, dated 18.09.2019 in M.C.O.P.2908/2015 on the file of the Motor Accident Claims Tribunal, Small Causes Court, Chennai.

For Appellant : Mr.J.Michael Visuvasam

For R1 to R4 : Mr.K.Varadha Kamaraj

For R5 : No appearance

JUDGMENT



CMA.No.1067 of 2020

The appellant, TATA AIG General Insurance Company

Limited, is the second respondent in M.C.O.P.2908/2015 on the file of the Motor Accident Claims Tribunal, Small Causes Court, Chennai. The claimants / respondents 1 to 4 filed the claim petition under Section 166 of Motor Vehicles Act and Rule 3 of the Motor Vehicles Rules, seeking compensation of Rs.10,00,000/- for the death of their mother Neelavathi in a road accident that occurred on 23.07.2014.

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

On 23.07.2014, Neelavathi was travelling in a car bearing Registration number TN-09-P-0580 on Kancheepuram - Chengelpattu road. When they were nearing Poorivalkam, another car bearing Registration number in TN-12-C-0001 came in the opposite direction and hit the car in which Neelavathi was travelling, as a result of which, Neelavathi sustained injuries all over her body. She was immediately rushed to hospital. However, she died on the way to hospital.

3. According to the claimants, the rash and negligent driving of



CMA.No.1067 of 2020

the driver of the car bearing Registration number TN-12-C-0001 was the cause of the accident and that since the owner of the car had insured his vehicle with the appellant, the TATA AIG General Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to them.

4. In the Tribunal, the owner of the car bearing Registration number TN-12-C-0001 remained absent and was set *ex parte*. The appellant, Insurance Corporation 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, fastened negligence on the part of the driver of the car bearing Registration number TN-12-C-0001 and directed the appellant Insurance Company to pay compensation of Rs.10,19,280/- to the claimants together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation. The Tribunal also held that the liability of the owner of the car and the insurer is joint and several.

6. Aggrieved over the quantum of compensation awarded by the



CMA.No.1067 of 2020

Tribunal, the appellant / Insurance Company has filed the present appeal under Section 173 of the Motor Vehicles Act.

7. Heard Mr.J.Michael Visuvasam, learned counsel for the appellant / Insurance Company and Mr.K.Varadha Kamaraj, learned counsel for the respondents / claimants.

8. It is seen from the records that Neelavathi (deceased) was 70 years old on the date of accident and she was a family pensioner. As per the pension documents (Ex.P5), she was receiving a sum of Rs.11,984/- as monthly pension. Therefore, the Tribunal had fixed the monthly income of the deceased as Rs.11,984/-. The Tribunal has adopted multiplier 5 as per the decision of the Hon'ble Supreme Court in *Sarla Verma and others vs. Delhi Transport Corporation and another* reported in (2009) 6 SCC 121.

The Award passed by the Tribunal is shown in the following Tabular Column:

<i>S.No.</i>	<i>Head</i>	<i>Amount awarded by the Tribunal</i>
1.	Loss of dependency	Rs.5,39,280/-
2.	Loss of Estate	Rs.15,000/-
3.	Funeral expenses	Rs.15,000/-



CMA.No.1067 of 2020

<i>S.No.</i>	<i>Head</i>	<i>Amount awarded by the Tribunal</i>
4.	Loss of consortium (Rs.40,000/- x 5)	Rs.2,00,000/-
5.	Loss of love and affection	Rs.2,50,000/-
Total		Rs.10,19,280/- round off to Rs.10,19,300/-

The claimants are entitled to a sum Rs.2,00,000/- (40,000 X 5), Rs.15,000/- and Rs.15,000/- towards loss of consortium, loss of estate, and funeral expenses respectively as per the decision of the Hon'ble Supreme Court in *National Insurance Co. vs Pranay sethi and others* reported in **2017 (2) TNMAC 601**.

Loss of dependency:

$$= \text{Rs.}11,984/- \times 12$$

$$= \text{Rs.}1,43,808/-$$

$$\text{After deducting } 1/4 = \text{Rs.}1,07,856/- \times 5$$

$$= \text{Rs.}5,39,280/-$$

Thus, the claimants are entitled to a total compensation of Rs.7,69,280/- (5,39,280 + 2,00,000 + 15,000 + 15,000 = 7,69,280) as shown in the following tabular column:



CMA.No.1067 of 2020

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs.5,39,280/-
2.	Loss of consortium (Rs.40,000/- x 5)	Rs.2,00,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.7,69,280/-

9. Thus, the compensation awarded by the Tribunal is scaled down to Rs.7,69,280/- from Rs.10,19,300/- that would carry interest at the rate of 7.5% per annum.

10. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.
- ii. The compensation awarded by the Tribunal is scaled down to Rs.7,69,280/- from Rs.10,19,300/-.
- iii. The liability of the owner of the car and the appellant (the TATA AIG General Insurance Company Limited) is joint and several and the appellant / the TATA AIG General Insurance Company Limited is directed to deposit the modified compensation amount i.e.,



CMA.No.1067 of 2020

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Rs.7,69,280 /- (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 realisation in the first instance, within a period of four weeks from the date of receipt of a copy of this order / uploading of this order to the credit of M.C.O.P.2908/2015 on the file of the Motor Accident Claims Tribunal, Special Sub Court II, Small Causes Court, Chennai.

iv. On such deposit being made, the 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.

24.10.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral citation : Yes / No
vum

R.HEMALATHA, J.

vum

To

1.The Motor Accident Claims Tribunal,
Special Sub Court II, Small Causes Court,



CMA.No.1067 of 2020

Chennai.

2. The Section Officer, VR Section,
Madras High Court, Chennai.

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