



CMA.No.1879 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1879 of 2023 and
C.M.P.No.18357 of 2023

The Branch Manager
National Insurance Company Limited,
Karthikeya Complex,
First Floor, 403-B10, Mettur Main Road,
Bhavani Taluk,
Erode District.

... Appellants

vs.

1. Subbulakshmi
2. Sakthivel
3. P.Manikandan

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 21.07.2022 in M.C.O.P.No.53/2019 on the file of the Motor Accident Claims Tribunal, IV Additional District and Sessions Court, Bhavani.

For Appellants	: Mrs.N.B.Sureka
For R1 and R2	: Mr.D.Senthil Kumar
For R3	: No appearance

J U D G M E N T



CMA.No.1879 of 2023

Challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Bhavani in M.C.O.P.No.53/2019, the present appeal is filed by the appellant, the National Insurance Company Limited.

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

On 12.09.2017 at about 9.00 p.m., Gowthaman (deceased) was travelling in a Mahindra ALFA Auto bearing Registration number TN-34-K-9562. The driver of the said vehicle drove the same in a rash and negligent manner, as a result of which, the vehicle turned turtle and Gowthaman sustained injuries. He was immediately rushed to the Government Hospital, Komarapalayam from where he was referred to Saravana Hospital, Bhavani and then to Vijaya Hospital, Erode. However, he succumbed to injuries on 13.09.2017.

3. According to the claimants, the rash and negligent driving of the driver of the Mahindra ALFA Auto bearing Registration number TN-34-K-9562 was the cause of the accident and therefore, the owner of the vehicle and his insurer (the appellant herein) are jointly and severally



CMA.No.1879 of 2023

liable to pay compensation. It is also their contention that their son was aged 17 years and had completed XII standard just before the accident and was actually returning home after attending a counselling session for the course of B.Sc., (Agriculture).

4. The Tribunal after analysing the evidence on record, awarded a compensation of Rs.22,59,135/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

5. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellant / Insurance Company has filed the present appeal under Section 173 of the Motor Vehicles Act.

6. Heard Mrs.N.B.Sureka, learned counsel appearing for the appellant and Mr.D.Senthil Kumar, learned counsel for the respondents 1 and 2. There is no representation for the 3rd respondent who is the owner of the vehicle.

7. Mrs.N.B.Sureka, learned counsel appearing for the appellants contended that though the victim was aged 17 years on the date of the



accident, the Tribunal had wrongly fixed the notional income of the deceased as Rs.14,000/- per month. She, therefore prayed for scaling down the compensation.

8. It is admitted that the deceased had just completed XII Standard at the time of accident. In the circumstances, this Court is of the opinion that fixing notional monthly income of the deceased at Rs.13,000/- 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. Since there are two dependents, 1/2nd of the deceased's income is deducted towards his personal expenses. The deceased was aged 17 years on the date of accident and the proper multiplier to be adopted in the instant case is 18 as per the decision rendered in *Sarla Verma and others vs. Delhi Transport Corporation and another* reported in **(2009) 6 SCC 121**.

Calculation :



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CMA.No.1879 of 2023

Notional Income = Rs.13,000/-

after adding 40% Future Prospects = Rs.18,200/-

After 1/2 deduction = Rs.9,100/-

Loss of dependency:

= Rs.9,100/- x 12 x 18

= Rs.19,65,600/-

In addition to that the claimants are entitled to Rs.80,000/- (40,000 X 2), Rs.24,835/-, Rs.15,000/-, Rs.15,000/- and Rs.7,500/- towards Loss of Consortium, Medical Bills, Loss of Estate, Funeral Expenses and Transportation charges 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.21,07,935/- (19,65,600 + 80,000 + 24,835 + 15000 + 15000 + 7,500 = 21,07,935) as shown in the following tabular column:

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs.19,65,600 /-
2.	Loss of consortium (Rs.40,000/- x 2)	Rs.80,000/-



CMA.No.1879 of 2023

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
3	Medical Bills	Rs.24,835/-
4.	Funeral expenses	Rs.15,000/-
5.	Loss of Estate	Rs.15,000/-
6.	Transportation charges	Rs.7,500/-
Total		Rs.21,07,935

9. The compensation awarded by the Tribunal is enhanced from Rs.22,59,135/- to Rs.21,07,935/- which 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.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.22,59,135/- to Rs.21,07,935/-.
- iii. The appellant, the National Insurance Company Limited, is directed to deposit the compensation amount i.e., Rs.21,07,935 /- (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 within a period of three weeks from the date of receipt of a copy of this order to the credit of M.C.O.P.No.53/2019 on the file of the Motor Accident Claims Tribunal, IV Additional District and



CMA.No.1879 of 2023

Sessions Court, Bhavani.

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iv. On such deposit being made, the respondents / 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. No costs.

09.08.2024

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

To

1.The Motor Accidents Claims Tribunal,
IV Additional District and Sessions Court, Bhavani.

2. The Branch Manager
National Insurance Company Limited,
Karthikeya Complex,
First Floor, 403-B10, Mettur Main Road,
Bhavani Taluk,
Erode District.

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

R.HEMALATHA, J.

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CMA.No.1879 of 2023

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09.08.2024