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CMA.No.1160 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.1160 of 2023

1. Kowsalya

2. Minor.Kanishk

... Appellants

(2nd minor appellant is represented by
his mother and natural Guardian Kowsalya)

VS.

1. Ramalingam

2. Ravichandran

3. ICICI Lombard General Insurance Co. Ltd.,
2nd & 3rd Floor, Nungampakkam Road,
Chottabhai Centre, Chennai.

4. Sarasu

5. Krishnasamy

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 05.08.2021 in M.C.O.P.371/2018 on the file of the Motor Accident Claims Tribunal, IV-Additional District and Sessions Court, Bhavani at Erode.

For Appellants : Mr.Ma.Pa.Thangavel

For R3 : Mrs.A.Salomi



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CMA.No.1160 of 2023

For R4 and 5 : Mr.D.Selvaraju
J U D G M E N T

The appellants are the claimants in M.C.O.P.371/2018 on the file of the Motor Accident Claims Tribunal, Erode. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.50,00,000/- for the death of one Raja @ Mariappan (husband of the first appellant, father of the second appellant and son of the fourth and fifth Respondents) in a road accident that occurred on 12.09.2018.

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

On 12.09.2018, Raja @ Mariappan (deceased) was riding a two-wheeler bearing Registration number TN-30-V-4363 on Bhavani - Mettur road. When he was nearing Kuthiraikalmedu, a speeding car bearing Registration number TN-36-AR-6060, hit the two wheeler from behind, as a result of which, Raja @ Mariappan (deceased) sustained injuries all over his body and died on spot.

3. According to the claimants, the rash and negligent driving of the driver of the car bearing Registration number TN-36-AR-6060 was



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.

7. Heard Mr.Ma.Pa.Thangavel, learned counsel for the appellants, Mrs.A.Salomi, learned counsel for the third respondent and Mr.D.Selvaraju, learned counsel for the Respondents 4 and 5.

8. Mr.Ma.Pa.Thangavel, learned counsel appearing for the appellants contended that Raja @ Mariappan (deceased) was aged 41 years on the date of accident and was running a two wheeler service center in the name and style 'Raja Service Center', earning a sum of Rs.25,000/- p.m. However, the Tribunal had fixed a meagre sum of Rs.9,000/- as his monthly notional income. He therefore prayed for enhancing the notional income of the deceased.

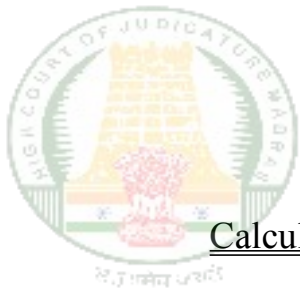
9. Per contra Mrs.A.Salomi, learned counsel appearing for the third respondent contended that the Award passed by the Tribunal is based on well laid principles of law which were in vogue at the time of



CMA.No.1160 of 2023

passing of the order and therefore, the same need not be disturbed at this stage.

10. According to the claimants, Raja @ Mariappan (deceased) aged 41 years, was running a two wheeler service center in the name and style 'Raja Service Center', earning a sum of Rs.25,000/- p.m. In the absence of satisfactory income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.9,000/-. It is pertinent to point out that the accident took place in the year 2018 and in the facts and circumstances, this Court is of the opinion that fixing notional monthly income of the deceased as Rs.16,000/- 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**, 25% is added towards future prospects of the deceased. Since there are four dependents, 1/4th is deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 14 as per the decision rendered in *Sarla Verma and others vs. Delhi Transport Corporation and another* reported in **(2009) 6 SCC 121**.



CMA.No.1160 of 2023

Calculation :

Notional Income = Rs.16,000/-

after adding 25% Future Prospects = Rs.20,000/-

After 1/4 deduction = Rs.15,000/-

Loss of dependency:

= Rs.15,000/- x 12 x 14

= Rs.25,20,000/-

In addition to that the claimants are entitled to Rs.1,60,000/- (40,000/-x4), Rs.15,000/- and Rs.15,000/- towards 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.27,10,000/- (25,20,000 + 1,60,000 + 15,000+15,000 = 27,10,000) 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. 25,20,000 /-
2.	Loss of consortium (Rs.40,000/- x 4)	Rs.1,60,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.27,10,000/-



CMA.No.1160 of 2023

11. Thus, the compensation awarded by the Tribunal is enhanced to Rs.27,10,000/- that would carry interest at the rate of 7.5% per annum.

12. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced to Rs.27,10,000/-.
- 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 liability of the owner of the car and the insurer, ICICI Lombard General Insurance Company Limited is joint and several and the third respondent / ICICI Lombard General Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.27,10,000/- (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 four weeks from



CMA.No.1160 of 2023

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the date of receipt of a copy of this order / uploading of this order to the credit of M.C.O.P.371/2018 on the file of the Motor Accident Claims Tribunal, IV-Additional District and Sessions Court, Bhavani at Erode.

v. Apportionment :

first claimant / wife	Rs.7,10,000/- (with interest and costs)
second claimant / minor son	Rs.10,00,000/-
fourth and fifth claimants / parents	Rs.5,00,000/- each

vi. The share of the minor appellant is directed to be deposited in any one of the Nationalised Bank till he attains majority. The claimants 1, 4 and 5 are at liberty to withdraw their respective shares after following due process of law.

14.10.2024

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



CMA.No.1160 of 2023

To

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- 1.The Motor Accidents Claims Tribunal,
IV-Additional District and Sessions Court,
Bhavani at Erode,
- 2.The Section Officer, VR Section,
Madras High Court, Chennai.



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CMA.No.1160 of 2023

R.HEMALATHA, J.

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C.M.A.No.1160 of 2023

14.10.2024