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CMA.No.1436 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.1436 of 2024

1. Selvan
2. Boomadevi
3. Minor Anbarasan
4. Minor Tamilarasan
(Minor appellants 3 and 4 are represented by
their father and natural guardian 1st appellant)

... Appellants

VS.

1. M.Avinash

2. Reliance General Insurance Co. Ltd.,
Zonal Office, Commercial Claims, 6th floor,
No.6, Haddows Road,
Chennai - 600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 09.11.2023 in M.C.O.P.2221/2021 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellants : Mr.R.Mohan Babu

For R2 : Mr.P.Suresh Srinivasan



CMA.No.1436 of 2024

JUDGMENT

The appellants are the claimants in M.C.O.P.2221/2021 on the file of the Motor Accident Claims Tribunal, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of M.A.C.T. Rules, seeking compensation of Rs.45,00,000/- for the death of one Poovarasan (son of the claimants 1 and 2 and brother of the claimants 3 and 4) in a road accident which happened on 15.04.2021.

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

On 15.04.2021, Poovarasan (deceased) was riding his two-wheeler bearing Registration number TN-25-BB-0063 on Maduravoyal Bye-pass road. When he was nearing Adayalampattu road, a Maxi Cab bearing Registration number TN 69 U 6174 came in the opposite direction and hit the two wheeler, as a result of which, Poovarasan sustained head injuries. He was immediately rushed to Kilpauk Medical College Hospital, Chennai. However, he succumbed to injuries on 19.04.2021.

3. According to the claimants, the rash and negligent driving of the driver of the Maxi Cab bearing Registration number TN 69 U 6174 was the cause of the accident and that since the said vehicle was insured



CMA.No.1436 of 2024

with the second respondent, the Reliance 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 vehicle remained absent and was set *exparte*. The second respondent, Insurance Company 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.16,22,000/- 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 09.11.2023.

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

7. Heard Mr.R.Mohan Babu, learned counsel for the appellants



and Mr.P.Suresh Srinivasan, learned counsel for the second respondent.

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8. Mr.R.Mohan Babu, learned counsel appearing for the appellants contended that the deceased, was working as a Supervisor for Ambattur Telephone exchange, earning a sum of Rs.18,000/- p.m. However, the Tribunal had fixed a meagre sum of Rs.10,000/- as his monthly notional income. He therefore prayed for enhancing the notional income of the deceased.

9. Per contra Mr.P.Suresh Srinivasan, learned counsel appearing for the second 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 passing of the order and therefore, the same need not be disturbed at this stage.

10. A perusal of the Salary Certificate (Ex.P11) of the deceased shows that the deceased was working as a Supervisor for Ambattur Telephone Exchange with a consolidated monthly payment of Rs.12,000/- However, the claimants did not examine the person who issued the



certificate. It is pertinent to point out that the accident took place in the year 2021 and in the facts and circumstances, this Court is of the opinion that fixing notional monthly income of the deceased at Rs.12,000/- 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 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 :

Notional Income = Rs.12,000/-

after adding 40% Future Prospects = Rs.16,800/-

After 1/2 deduction = Rs.8,400/-

Loss of dependency :

= Rs.8,400/- x 12 x 18

= Rs.18,14,400/-

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



CMA.No.1436 of 2024

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.20,04,400/- (18,14,400 + 1,60,000 + 15,000 + 15,000 = 20,04,400) 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. 18,14,400 /-
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.20,04,400/-

11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.16,22,000/- to Rs.20,04,400/- which 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 from



CMA.No.1436 of 2024

Rs.16,22,000/- to Rs.20,04,400/-.

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- 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 first respondent (owner) and the second respondent (the Reliance General Insurance Company Limited) is joint and several and the second respondent / Reliance General Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.20,04,400/- (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 the date of receipt of a copy of this order / uploading of this order to the credit of M.C.O.P.2221/2021 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.
- v. On such deposit being made, the claimants are at liberty to withdraw their respective shares as shown below after following due process of law:



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CMA.No.1436 of 2024

1st appellant / Mother

= Rs.10,04,400/-
(with interest and costs)

2nd Appellants / Father

= Rs.5,00,000/-

3rd and 4th Appellants / brothers = Rs.2,50,000/- each

vi. The share of the minor appellants 3 and 4 are directed to be deposited in any one of the Nationalised Bank till they attain majority.

02.09.2024

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

- 1.The Motor Accident Claims Tribunal
Chief Judge,
Small Causes Court, Chennai.
- 2.The Section Officer, VR Section,
Madras High Court, Chennai.

R.HEMALATHA, J.

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