



CMA No.2027 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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CORAM :

THE HONOURABLE **MR.JUSTICE RMT.TEEKAA RAMAN**

C.M.A.No.2027 of 2021
and C.M.P. No.10966 of 2021

Judgment reserved on 29.01.2024	Judgment pronounced on 05.03.2024
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United India Insurance Co. Ltd.,
Silingi Buildings,
New No.134, Old No.4-45,
Greens Road, Chennai - 6.

..

Appellant

Vs.

1.Amsa
2.Loganathan – minor rep.
by his mother and NF D.Amsa
3.Ellammal
4.A.Ramamurthy

..

Respondents

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the order and decree dated 06.02.2020 made in MCOP No.6073 of 2018 passed by the Chief Judge, Court of Small Causes, Chennai.



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For Appellant : MrP.Sankaranarayanan

For R.1 to R.3 : Mr.D.Premkumar

For R-4 : No appearance

J U D G M E N T

The appellant/Insurance company has filed the present appeal challenging the award passed by the Tribunal dated 06.02.2020 made in MCOP No.6073 of 2018 passed by the Chief Judge, Court of Small Causes, Chennai, on the ground of quantum as well as the procedure adopted in dealing with the claim petition filed under the Motor Vehicles Act.

2. The factum of accident, manner of accident, vehicle being insured with the appellant/Insurance company and the rash and negligent driving by the driver of the vehicle belonging to the fourth respondent are not in dispute. Accordingly, the finding rendered by the Trial Court with regard to negligence are hereby confirmed.



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WEB COPY 3. The learned counsel appearing for the appellant/Insurance company would contend that the Tribunal has erroneously considered the application under Section 166 instead of 163-A of the M.V. Act and ought not to have fixed the income of the deceased at Rs.10,000/- per month. The second point that was urged by the learned for the appellant/Insurance Company is adoption of multiplier method by the Tribunal.

4. Per contra, the learned counsel for the respondents 1 to 3 / claim petitioners would contend that M.P.No.2 of 2020 was filed and accordingly the provisions of law has been amended. On verification of the records, I find that the amendment petition was allowed. The provision of law has been duly amended and hence I find that the said contention on factual need not be gone into.

5. Heard the learned counsel appearing for the appellant as well as respondents 1 to 3 and perused the materials on record. Though notice has been served on the fourth respondent and his name has been printed in the



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cause list, there is no representation for him either in person or through

counsel.

6. On perusal of the materials on record, it is seen that the 1st respondent/1st claim petitioner was examined as PW1. Salary certificate of the deceased Ramados was marked as Ex.P5, Bank statement of the deceased was marked as Ex.P6 and copy of Aadhar card of the 1st respondent was marked as Ex.P7. The date of accident was 27.08.2018. As per the claim petition as well as the evidence of PW1, the deceased was working as house keeper in BVG India Pvt. Ltd., Manapakkam, earning a sum of Rs.11,000/- per month. Ex.P.5 – salary slip & Ex.P7 – Bank statement of the deceased are for the year 2014 to 2018. Hence, taking into consideration the nature and place of avocation said to have been carried on by the deceased, the Tribunal has rightly fixed the notional income of the deceased at Rs.10,000/-. As the deceased was aged 42 years at the time of accident, following the judgment of the Hon'ble Supreme Court in ***SARLA VERMA & OTHER v. Delhi Transport Corporation & Another reported in 2009 (2) TNMAC (1) SC and National Insurance Company Limited v. Pranay Sethi and others reported***



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in 2017 (2) TNMAC 609, the Tribunal has rightly applied applied 14 and granted 25% enhancement towards future prospects. Since there are three dependants, the Tribunal has rightly deducted 1/3rd towards personal expenses of the deceased and awarded a sum of Rs.14,00,000/- as compensation towards loss of future dependency. The compensation awarded by the Tribunal under other heads are also just and reasonable and hence the same are confirmed. Accordingly, this Court has no hesitation to hold that the compensation awarded by the Tribunal is just and fair and does not warrant any interference by this Court.

7. In fine,

(i) this Civil Miscellaneous Appeal is dismissed confirming the compensation awarded by the Tribunal dated 06.02.2020 made in MCOP No.6073 of 2018 by the Chief Judge, Court of Small Causes, Chennai.

(ii) the appellant/Insurance Company is directed to deposit the award amount before the Tribunal alongwith interest and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.



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(iii) on such deposit being made, the respondents 1 & 3 /claim petitioners 1 & 3 are permitted to withdraw the award amount on the basis of apportionment fixed by the Tribunal, less the amount, if any, already withdrawn, by filing necessary application before the Tribunal. The share of the 2nd respondent, being minor, is directed to be deposited in any one of the Nationalised Bank, till he attains majority.

(iv) No costs. Consequently, connected Miscellaneous Petition is closed.

05.03.2024

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Index : Yes/No

Neutral Citation: Yes/No

Speaking Order: Yes/No

To

1. The Chief Judge,
Court of Small Causes,
Motor Accident Claims Tribunal,
Chennai.
2. The Section Officer,
V.R.Section, High Court,
Madras.

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RMT.TEEKAA RAMAN.J,

rgr

Judgment made in
C.M.A.No.2027 of 2021

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