



WEB COPY



CMA.No.1838 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.1838 of 2024

Kokila

... Appellants

VS.

1. N.Ramanathan

2. M/s.National Insurance Company Limited,
LRN Colony, Sarada college Road,
Salem.

...

Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award, dated 01.03.2024 in M.C.O.P.993/2023 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

For Appellants : Mr.Ma.P.Thangavel

For R2 : Mrs.R.Rathna Thara

J U D G M E N T

The appellant is the claimant in M.C.O.P.993/2023 on the file of the Motor Accident Claims Tribunal, Salem. She filed the claim petition



CMA.No.1838 of 2024

under Section 166 of the Motor Vehicles Act seeking compensation of Rs.50,00,000/- for the death of her daughter Minor.Yuvaashini in a road accident that occurred on 25.02.2023.

2. The brief case of the appellant / claimant is as follows :

On 25.02.2023, Minor.Yuvaashini (deceased) aged one year was travelling as a pillion rider in a two-wheeler bearing Registration number TN-36-W-1810 on Tharamangalam - Jalagandapuram main road. When she was nearing Selavadai PACB Bank, a speeding Taurus lorry bearing Registration number TN-30-BW-3499 came in the opposite direction and hit the two wheeler, resulting in the instantaneous death of Minor.Yuvaashini.

3. According to the claimant, the rash and negligent driving of the driver of the Taurus lorry bearing Registration number TN-30-BW-3499 was the cause of the accident and that since the said vehicle was insured with the second respondent, the National Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to her.



CMA.No.1838 of 2024

WEB COPY

4. In the Tribunal, the owner of the lorry remained absent and was set *exparte*. The second respondent 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 Taurus lorry bearing Registration number TN-30-BW-3499 and awarded a consolidated sum of Rs.5,00,000/- 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 10.10.2022. The Tribunal also held that the liability of the owner of the lorry and the insurer is joint and several.

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

7. Heard Mr.Ma.P.Thangavel, learned counsel appearing for the appellants and Mrs.R.Rathna Thara, learned counsel for the second



respondent.

WEB COPY

8. Mr.Ma.P.Thangavel, learned counsel appearing for the appellant/claimant relied on the decision of a single judge of this Court in ***M.Ganesamoorthy and others vs. The Managing Director, Tamil Nadu State Transport Corporation, Villupuram*** in ***C.M.A.Nos.2777 and 2778 of 2022 dated 19.03.2023*** and contended that this Court had fixed Rs.5,000/- as notional monthly income for a minor child aged 2½ years. He therefore prayed for enhancement of compensation.

9. Per contra, Mrs.R.Rathna Thara, learned counsel appearing for the second respondent / the National Insurance Company Limited, contended that the Award passed by the Tribunal is based on the well laid down principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed.

10. In ***Kishan Gopal and another vs. Lala and others*** reported in ***2013 (2) TN MAC 358***, the Hon'ble Supreme Court fixed the notional income of a minor child as Rs.30,000/- per annum and granted a sum of



Rs.50,000/- under the other conventional heads. The accident in ***Kishan***

Gopal and another vs. Lala and others (cited supra) happened in the year 2013. In the present case, considering the passage of time and the age of the victim child, fixing Rs.5,000/- per month as notional income of the deceased would meet the ends of justice. The proper multiplier to be adopted in the instant case is 15, as per the decision in ***Sarla Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121***. Calculation for loss of dependency is worked out here under.

Calculation :

$$\text{Notional Income} = \text{Rs.5,000/-} \times 12 = \text{Rs.60,000/-}$$

Loss of dependency :

$$= \text{Rs.60,000/-} \times 15$$

$$= \text{Rs.9,00,000/-}$$

In addition to that the claimant is entitled to Rs.44,000/-, Rs.16,500/- and Rs.16,500/- towards "loss of consortium, funeral expenses and loss of estate" respectively as per the decision in ***National Insurance Company Limited Vs. Pranay Sethi and others*** (cited supra). Thus, the claimant is entitled to a total compensation of Rs.9,77,000 /- (9,00,000 + 44,000 + 16,500 + 16,500 = 9,77,000) as shown in the following tabular column.



CMA.No.1838 of 2024

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court (Rs.)</i>
1.	Loss of dependency	9,00,000/-
2.	Loss of consortium	44,000/-
3.	Funeral expenses	16,500/-
4.	Loss of Estate	16,500/-
Total		Rs.9,77,000/-

11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.5,00,000/- to Rs.9,77,000/- 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 to Rs.9,77,000/-.
- iii. The appellant / claimant is 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 National Insurance Company Limited) is joint and



CMA.No.1838 of 2024

WEB COPY

several and the second respondent / the National Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.9,77,000/- (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 the date of receipt of a copy of this order / uploading of this order to the credit of M.C.O.P.993/2023 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

- v. On such deposit being made, the appellant, claimant is permitted to withdraw the same with accrued interest and costs, after following due process of law.

30.09.2024

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

To

- 1.The Motor Accidents Claims Tribunal,
Special District Court, Salem.
- 2.The Section Officer, VR Section,
Madras High Court, Chennai.



WEB COPY



CMA.No.1838 of 2024

R.HEMALATHA, J.

vum

C.M.A.No.1838 of 2024

30.09.2024
(3/3)