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CMA.No.1714 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.1714 of 2024

1. Govinthammal

2. Palanivel

3. Sakthivel

... 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.996/2023 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 appellants are the claimants in M.C.O.P.996/2023 on the file of the Motor Accident Claims Tribunal, Salem. They filed the claim



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petition under Section 166 of the Motor Vehicles Act seeking compensation of Rs.20,00,000/- for the death of one Minor.Santhosh (son of the claimants 1 and 2 and brother of the third claimant) in a road accident that occurred on 25.02.2023.

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

On 25.02.2023, Minor.Santhosh (deceased) was travelling as a pillion rider in a two-wheeler bearing Registration number TN-36-W-1810 on Tharamangalam - Jalagandapuram main road. When he 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.Santhosh.

3. According to the claimants, 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 them.



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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 driver of the Taurus lorry bearing Registration number TN-30-BW-3499 and directed the second respondent, the National Insurance Company Limited to pay compensation of Rs.11,65,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. 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 appellants / claimants have filed the present appeal under Section 173 of the Motor Vehicles Act.



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

8. Mr.Ma.P.Thangavel, learned counsel appearing for the appellants/claimants contended that the deceased was aged 16 years at the time of accident and was a school student. However, the Tribunal had awarded a meagre amount towards compensation. He therefore, prayed for enhancement of the same.

9. Per contra Mrs.R.Rathna Thara, learned counsel appearing for the second respondent, 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.7,000/- 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 18, 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 :

$$\text{Notional Income} = \text{Rs.7,000/-} \times 12 = \text{Rs.84,000/-}$$

Loss of dependency :

$$= \text{Rs.84,000/-} \times 18$$

$$= \text{Rs.15,12,000/-}$$

In addition to that the claimants are entitled to Rs.1,32,000/- (44,000 x 3), 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 claimants are entitled to a total compensation of Rs. 16,77,000/- (15,12,000 + 1,32,000 +16,500 +16,500 = 16,77,000) as shown in the following tabular column.



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<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court (Rs.)</i>
1.	Loss of dependency	15,12,000/-
2.	Loss of consortium	1,32,000/-
3.	Funeral expenses	16,500/-
4.	Loss of Estate	16,500/-
Total		16,77,000/-

11. Thus, the compensation awarded by the Tribunal is enhanced to Rs.16,77,000/- 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.16,77,000/-.
- 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 first respondent (owner) and the second respondent (the National Insurance Company Limited) is joint and



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several and the second respondent / the National Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.16,77,000/- (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.996/2023 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

- v. On such deposit being made, the appellants, claimants are permitted to withdraw the same with accrued interest and costs, after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

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.



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R.HEMALATHA, J.

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