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CMA.No.2037 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2037 of 2024

1. M.Devi
2. M.Rajesh
3. M.Rajeshwari
4. Pottiyammal

... Appellants

VS.

1. M/s.Southern Steels and Forgings,
No.116, Sidco Aiema Towers,
Ambattur Industrial Estate,
Chennai - 600 058.

2. United India Insurance Company Limited,
Motor Third Party Hub,
Silingi Building, 4th Floor,
No.134, Greams Road,
Chennai - 600 006.

... Respondents

(Cause title accepted vide court order dated 19.06.2024 made in C.M.P.No.11568 of 2024 in C.M.A.Sr.No.69413 of 2023)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 28.11.2022 in M.C.O.P.No.1361 of 2019 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai.



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CMA.No.2037 of 2024

For Appellants : Ms.Ramya V. Rao

For R1 : No appearance

For R2 : Ms.R.Rathnathara

J U D G M E N T

The appellants are the claimants in M.C.O.P.No.1361 of 2019 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai, and they filed the said claim petition under Section 166 of the Motor Vehicles Act, seeking compensation of Rs.10,00,000/- for the death of Munusamy, (the husband of the first claimant, father of the claimants 2 and 3 and son of the third claimant) in a road accident that took place on 04.12.2018.

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

On 04.12.2018, Munusamy (deceased) was riding his two wheeler bearing Registration Number TN-22-CW-0596 with his wife Devi as a pillion rider on ECR Road, Chennai. When they were nearing Crocodile Park at about 5.15 p.m, a speeding car bearing Registration Number TN-13-A-7402, belonging to the first respondent and insured



CMA.No.2037 of 2024

with the second respondent hit the two wheeler, as a result of which, both Munusamy and his wife Devi fell down and sustained injuries all over their body and were rushed to Chettinad Super Speciality Hospital, Kelambakkam from where they were referred to Rajiv Gandhi Government Hospital, Chennai. However, Munusamy succumbed to injuries on 24.02.2019.

3. According to the claimants, the rash and negligent driving of the driver of the car was the cause of the accident and that since the owner of the car had insured his vehicle with the second respondent, the United India Insurance Company Limited, the owner and the insurer of the car are jointly and severally liable to pay compensation.

4. The respondents resisted the claim petition by filing their respective counters.

5. The Tribunal after analysing the evidence on record, awarded a compensation of Rs.20,80,000/- to the appellants together with interest at the rate of 7.5% per annum from the date of petition till the date of



CMA.No.2037 of 2024

realisation, vide its orders dated 28.11.2022. The Tribunal also held that the liability of the first and the second respondent 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, seeking for enhancement of compensation amount.

7. Heard Ms.Ramya V. Rao, learned counsel appearing for the appellants and Ms.R.Rathnathara, learned counsel appearing for the second respondent. No representation for the first respondent.

8. Ms.Ramya V. Rao, learned counsel appearing for the appellants contended that the deceased was a snake catcher by profession and he belongs to Irula Community. According to her, the deceased was earning a sum of Rs.25,000/- per month but the Tribunal has fixed his monthly income as Rs.12,000/- per month which is too meagre.



CMA.No.2037 of 2024

9. Per contra Ms.R.Rathnathara, learned counsel appearing for the second respondent / the United India Insurance Company Limited contended that the Award passed by the Tribunal is based on the 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. It is seen from the records that the claimants did not adduce any documents to show the actual income of the deceased. In the absence of income proof, the Tribunal fixed the monthly income of the deceased as Rs.12,000/-. 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 the notional monthly income of the deceased at Rs.15,000/- would meet the ends of justice. The deceased was aged 43 years on the date of the accident. 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% should be added towards future prospects of the deceased. Since there are four dependents, 1/4th of the deceased's income should be deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is fourteen as per the decision rendered in



CMA.No.2037 of 2024

Sarla Verma and others vs. Delhi Transport Corporation and another

reported in ***(2009) 6 SCC 121.***

Calculation

Notional Income = Rs.15,000/-

25% Future Prospects = Rs.3,750/-

Total = Rs.15,000/- + Rs.3,750/- = Rs.18,750/-

After 1/4 deduction = Rs.14,062.50/-

Loss of dependency

= Rs.14,062.50/- x 12 x 14

= Rs.23,62,500/-

In addition to that the claimants are entitled to Rs.40,000/-, Rs.15,000/- and Rs.15,000/- for 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.25,52,500/- (23,62,500 + 1,60,000 + 15000 + 15000= 25,52,500) which is extracted here under :

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs.25,52,500/-
2.	Loss of consortium	Rs.1,60,000/-



CMA.No.2037 of 2024

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
	(Rs.40,000/- x 4)	
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.25,52,500/-

11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.20,80,000/- to Rs.25,52,500/- 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 Rs.20,80,000/- to Rs.25,52,500/-.
- 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 first respondent and the second respondent, the United India Insurance Company Limited are directed to deposit the



CMA.No.2037 of 2024

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compensation amount i.e., Rs.25,52,500/- (less the amount already deposited) jointly and severally, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.1361 of 2019 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai, within a period of four weeks from the date of receipt of a copy of this order.

- v. On such deposit being made, the claimants are at liberty to withdraw the same as per the order passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

07.08.2024

Index : Yes/No
Speaking/Non-speaking order
mtl



CMA.No.2037 of 2024

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1.The Motor Accidents Claims Tribunal,
VI Small Causes Court, Chennai.

2. United India Insurance Company Limited,
Motor Third Party Hub,
Silingi Building, 4th Floor,
No.134, Greaves Road,
Chennai - 600 006.

3. The Section Officer, VR Section, Madras High Court, Chennai.



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CMA.No.2037 of 2024

R.HEMALATHA, J.

mtl

C.M.A.No.2037 of 2024

05.08.2024