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CMA.No.1657 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1657 of 2024

1. S.Anuradha
2. K.Sivakumar
3. S.Muralidharan

... Appellants

vs.

1. M/s.General Connectors India Pvt. Ltd.,
No.306, Cuddalore Road, Mudaliarpeth,
Mouruungapakkam, Pondicherry - 605 004.

2. Tata AIG GENERAL INSURANCE CO.LTD.,
2nd Floor, Samson Towers,
No.403, L, Pantheon Road,
Egmore, Chennai - 600 008.

...Respondents

(The first respondent remained absent and was set *ex parte* in the lower court and hence notice may be dispensed with)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 26.02.2024 in M.A.C.T.O.P.No.55 of 2020 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellants : Mr.P.Cheralaadhan
For R2 : Mr.J.Michael Visuvasam



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<i>S.No.</i>	<i>Head</i>	<i>Amount granted</i>
2.	Loss of Estate	Rs.15,000/-
3.	Loss of Consortium (Rs.40,000/- (each) x 2)	Rs.80,000/-
4.	Funeral Expenses	Rs.15,000/-
5.	Transport Charges	Rs.10,000/-
Total Compensation		Rs.23,88,000/-
Less : Contributory Negligence 10%		Rs.2,38,800/-
Compensation Payable (90%)		Rs.21,49,200/- Rounded off to Rs.21,50,000/-

Not being satisfied with the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mr.P.Cheralaadhan, learned counsel appearing for the appellants and Mr.J.Michael Visuvasam, learned counsel appearing for the second respondent.

6. Mr.P.Cheralaadhan, learned counsel appearing for the appellants / claimants would contend that the deceased Sathiskumar had actually completed his course in Bachelor of Business Administration (B.B.A) in Nandanam Arts and Science College, Chennai and was



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searching for a job. The Tribunal fixed the notional income of the deceased as Rs.15,000/- per month which according to him is too low and the same should be fixed as Rs.20,000/- per month. He would further contend that the amount awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation. His another contention was that even though the driver of Mini Lorry was found to be rash and negligent, the Tribunal had deducted 10% towards contributory negligence on the part of the deceased which is totally erroneous.

7. *Per contra* Mr.J.Michael Visuvasam, learned counsel appearing for the second respondent / Tata AIG General 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.

8. The deceased Sathishkumar has completed Bachelor of Business Administration (B.B.A) in Nandanam Arts and Science College, Chennai. The accident took place on 09.12.2019. The deceased was aged



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21 years on the date of the accident. The notional income fixed by the Tribunal at Rs.15,000/- per month is meagre and therefore, a sum of Rs.17,000/- is taken up as notional monthly income of the deceased. 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 (SC)**, 40% towards future prospects has to be added to this notional income. The deceased died as a bachelor and hence, 50% is deducted towards his personal expenses. The deceased was aged 21 years on the date of accident and as per the decision rendered in **Sarla Verma and Others vs. Delhi Transport Corporation and another** reported in **(2009) 6 SCC 121** the proper multiplier is eighteen.

Loss of Dependency :

$$[(Rs.17,000/- + Rs.6,800/- (Rs.17,000/- \text{ of } 40\%) \times 12 \times 18 \times 50\% \\ = Rs.25,70,400/-)]$$

Therefore, the reworked compensation would be as follows:

<i>S.No</i>	<i>Description</i>	<i>Amount awarded by Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>	<i>Award confirmed or enhanced or granted or reduced</i>
1.	Loss of	22,68,000	25,70,400	Enhanced



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<i>S.No</i>	<i>Description</i>	<i>Amount awarded by Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>	<i>Award confirmed or enhanced or granted or reduced</i>
	Dependency			
2.	Loss of Estate	15,000	15,000	confirmed
3.	Loss of Consortium (Rs.40,000/- (each) x 2)	80,000	80,000	confirmed
4.	Funeral Expenses	15,000	15,000	confirmed
5.	Transport Charges	10,000	10,000	confirmed
	Total	23,88,000 after deducting 90% contributory negligence, it comes to 21,49,200 rounded off to 21,50,000	26,90,400 after deducting 90% contributory negligence, it comes to 24,21,360	Enhanced by 2,71,360

9. Thus, the compensation awarded by the Tribunal is enhanced from Rs.21,50,000/- to Rs.24,21,360/- which would carry interest at the rate of 7.5% per annum.

10. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.



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(ii) The compensation awarded by the Tribunal is enhanced from Rs.21,50,000/- to Rs.24,21,360/-.

(iii) The appellants 1 and 2 / claimants 1 and 2 are directed to pay court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after receipt of the Court fee.

(iv) The second respondent / Tata AIG General Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.24,21,360/- (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 to the credit of M.A.C.T.O.P.No.55 of 2020 on the file of the Motor Accident Claims Tribunal / Chief Judge, 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 appellants 1 and 2 / claimants 1 and 2 are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

05.08.2024



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Index : Yes/No

Speaking/Non-speaking order
mtl

To

1. The Motor Accidents Claims Tribunal, the Chief Judge, Small Causes Court, Chennai.
2. Tata AIG GENERAL INSURANCE CO.LTD., 2nd Floor, Samson Towers, No.403, L, Pantheon Road, Egmore, Chennai - 600 008.
3. The Section Officer, V.R. Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

mtl

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