



CMA.No.2339 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2339 of 2024

1. A.Meena
2. P.Lalitha

... Appellants

VS.

1. M.Veerabathiran

2. Reliance General Insurance Company Limited,
Reliance House, 6th Floor,
No.6, Haddows Road, Nungambakkam,
Chennai – 6.

3. M.Murugan

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 26.07.2023 in M.C.O.P.2811 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Judge No.1, Small Causes Court, Chennai.

For Appellants : Mr.V.Tamilamudhu

For R2 : Ms.G.Sukumari



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JUDGMENT

The appellants are the claimants in M.C.O.P.2811 of 2017 on the file of the Motor Accident Claims Tribunal, Small Causes Court, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.75,00,000/- for the death of one Saraviyammal, (the mother of claimants) in a road accident that took place on 29.11.2016.

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

On 29.11.2016, Saraviyammal (since deceased) was travelling as a pillion rider in a motorcycle bearing Registration Number TN-19-B-6069 on Karunilam – Ammapettai Road. When they were nearing VGP Nagar, Chinnamarudheri, the driver of the two wheeler drove the vehicle in a rash and negligent manner, as a result of which, Saraviyammal fell down and sustained injuries. She was immediately rushed to Sathyasai Hospital, Ammapettai. However, she succumbed to injuries on 04.12.2016.

3. According to the claimants, the rash and negligent driving of



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the driver of the two wheeler bearing Registration Number TN-19-B-6069 belonging to the first respondent was the cause of the accident and that since the said vehicle was insured with the second respondent, the Reliance General Insurance Company Limited, the owner of the two wheeler and the insurer are jointly and severally liable to pay compensation to them.

4. In the Tribunal, the respondents 1 and 3 remained absent and were set *ex parte*. The second respondent, Insurance Company 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 two wheeler and awarded compensation of Rs.10,78,000/- to the appellants/claimants 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 26.07.2023.

6. Aggrieved over the quantum of compensation awarded by the



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Tribunal, the appellants / claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

7. Heard Mr.V.Tamilamudhu, learned counsel appearing for the appellants and Ms.G.Sukumari, learned counsel appearing for the second respondent.

8. In the claim petition, it is contended that the deceased was aged about 52 years and was a construction worker earning a sum of Rs.15,000/- per month. In the absence of proof of income, the Tribunal fixed the notional monthly income of the deceased as Rs.10,000/-. Considering the age of the victim and the year of the accident, this Court is of the opinion that fixing the notional monthly income of the deceased at Rs.14,000/- would meet the ends of justice. 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**, 10% is added towards future prospects of the deceased. Since there are two dependents, 1/3rd of the deceased's income is deducted towards her personal expenses. The proper multiplier to be adopted in the instant case is 11 as per the decision rendered in *Sarla Verma and others vs. Delhi Transport Corporation*



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and another reported in (2009) 6 SCC 121.

Calculation :

Notional Income = Rs.14,000/-

10% Future Prospects = Rs.15,400/-

Loss of dependency :

= Rs.15,400/- x 12 x 11 x 2/3

= Rs.13,55,200/-

In addition to that the claimants are entitled to Rs.80,000/- (40,000 x 2), 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.14,65,200/- (13,55,200 + 80,000 + 15,000 + 15,000= 14,65,200) as shown in the following tabular column.

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs.13,55,200/-
2.	Loss of consortium (Rs.40,000/- x 2)	Rs.80,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.14,65,200/-



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9. Thus, the compensation awarded by the Tribunal is enhanced from Rs.10,78,000/- to Rs.14,65,200/- 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.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.10,78,000/- to Rs.14,65,200/-.
- 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 second respondent, the Reliance General Insurance Company Limited is directed to deposit the compensation amount i.e., Rs.14,65,200/- (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 to the credit of M.C.O.P.2811 of 2017 on the file of the Motor Accident Claims



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Tribunal, Special Sub Judge No.1, Small Causes Court, Chennai.

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y. On such deposit being made, the appellants / claimants 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. The appellants/claimants are not entitled to claim any interest for the period of delay of 187 days in filing this appeal.

02.09.2024

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

To

1.The Motor Accidents Claims Tribunal,
Special Sub Judge No.1, Small Causes Court, Chennai.

2. Reliance General Insurance Company Limited,

7/9



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Reliance House, 6th Floor,
No.6, Haddows Road, Nungambakkam,
Chennai – 6.

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

R.HEMALATHA, J.

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