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CMA.No.2647 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.2647 of 2024

1.Kala

2.Minor. Prathiksha

3.Minor. Jeeva

(2 and 3 minor appellants are represented
by their mother and natural guardian Kala)

4.Sundarambal

5.Thangaraj

... Appellants

vs.

1.Meiyalakan

2.Shriram General Insurance Company Limited,
VCTV Main Road, Sathy Road,
Erode District - 638 003.

Having Branch Office at
1st Floor, Front Portion,
No.5F, Sachin Plaza, Reddiyar Block No.1,
Sriram Nagar, Alagapuram Pudur,
Salem District - 636 016.

... Respondents



CMA.No.2647 of 2024

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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 02.01.2024 in M.C.O.P.1489 of 2022 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

For Appellants : Mr.R.Navaneetha Krishnan

For R2 : Ms.R.Sreevidhya

J U D G M E N T

The appellants are the claimants in M.C.O.P.1489 of 2022 on the file of the Motor Accident Claims Tribunal, Salem. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.50,00,000/- for the death of one Gopi, (husband of claimant 1 ; father of claimants 2 and 3 ; son of claimants 4 and 5) in a road accident that took place on 18.07.2022.

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

On 18.07.2022, Gopi (since deceased) was travelling as a pillion rider in a two wheeler bearing Registration Number TN-34-R-2776 on Sankari - Padaiveedu Road and at about 03.30 a.m., a speeding another



CMA.No.2647 of 2024

two wheeler bearing Registration Number TN-52-L-7137 belonging to the first respondent came in a rash and negligent manner and hit the two wheeler in which Gopi was travelling, causing his instantaneous death.

3. According to the claimants, the rash and negligent driving of the rider of the two wheeler bearing Registration Number TN-52-L-7137 was the cause of the accident and that since the said vehicle was insured with the second respondent, the Shriram General Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to them.

4. In the Tribunal the owner of the two wheeler (first respondent) remained absent and was set *ex parte*. The second respondent, the Shriram General Insurance Company Limited resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

5. The Tribunal vide its orders dated 02.01.2024, fastened negligence on the part of the rider of the two wheeler bearing Registration



CMA.No.2647 of 2024

Number TN-52-L-7137 and also held that the owner of the two wheeler and the insurer are jointly and severally liable to pay compensation of Rs.15,15,000/- 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.

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, 1988.

7. Heard Mr.R.Navaneetha Krishnan, learned counsel appearing for the appellants and Ms.R.Sreevidhya, learned counsel appearing for the second respondent.

8. Mr.R.Navaneetha Krishnan, learned counsel appearing for the appellants would contend that the deceased was working as a lorry driver earning a sum of Rs.30,000/- per month. However, the Tribunal fixed the notional monthly income of the deceased only as Rs.10,000/- including future prospects, which, according to him, is very meagre. He



CMA.No.2647 of 2024

therefore, prayed for enhancement of compensation.

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9. Per contra Ms.R.Sreevidhya, learned counsel appearing for the second respondent 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 at this stage.

10. In the claim petition, it is contended that the deceased was aged about 37 years and was a lorry driver earning a sum of Rs.30,000/- per month. In the absence of satisfactory income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.10,000/- including future prospects. Considering the age of the victim and the year of the accident, this Court is of the opinion that fixing notional monthly income of the deceased at Rs.17,000/- 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**, 40% is added towards future prospects of the deceased. Since there are five dependents, 1/4th of the deceased's income should be deducted towards his personal



CMA.No.2647 of 2024

expenses. The proper multiplier to be adopted in the instant case is 15 as

per the decision rendered in ***Sarla Verma and others vs. Delhi Transport***

Corporation and another reported in ***(2009) 6 SCC 121***.

Calculation

Notional Income = Rs.17,000/-

40% Future Prospects = Rs.23,800/-

After 1/4 deduction = Rs.17,850/-

Loss of dependency

= Rs.17,850/- x 12 x 15

= Rs.32,13,000/-

In addition to that the claimants are entitled to Rs.2,20,000/- (44,000 x 5), Rs.16,500/- and Rs.16,500/- 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.34,66,000/- (32,13,000 + 2,20,000 + 16,500 + 16,500 = 34,66,000) as shown in the following tabular column.



CMA.No.2647 of 2024

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs.32,13,000/-
2.	Loss of consortium (Rs.44,000/- x 5)	Rs.2,20,000/-
3.	Funeral expenses	Rs.16,500/-
4.	Loss of Estate	Rs.16,500/-
Total		Rs.34,66,000/-

11. Thus, the compensation awarded by the Tribunal is enhanced to Rs.34,66,000/- 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.34,66,000/-.
- iii. The appellants / claimants are directed to pay the court fee for the enhanced compensation amount, if any, within a period of four



CMA.No.2647 of 2024

WEB COPY

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 Shriram General Insurance Company Limited, is directed to deposit the enhanced compensation amount i.e., Rs.34,66,000/- (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.1489 of 2022 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

v. Apportionment :

1st claimant / Wife	Rs.8,66,000/- (with interest and costs)
2nd claimant / Daughter (Minor)	Rs.10,00,000/-
3rd claimant / Son (Minor)	Rs.10,00,000/-
4th claimant / Mother	Rs.4,00,000/-
5th claimant / Father	Rs.2,00,000/-



CMA.No.2647 of 2024

WEB COPY

vi. The compensation amount of the minor claimants 2 and 3 shall be deposited in any one of the Nationalised Bank till they attain majority. The claimants 1, 4 and 5 are at liberty to withdraw their respective shares after following due process of law.

vii. The appellants/claimants are not entitled to claim any interest for the period of delay of 76 days in filing this appeal.

30.09.2024

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



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CMA.No.2647 of 2024

To

1.The Motor Accidents Claims Tribunal,
Special District Court, Salem.

2.Shriram General Insurance Company Limited,
VCTV Main Road, Sathy Road,
Erode District - 638 003.

Having Branch Office at
1st Floor, Front Portion,
No.5F, Sachin Plaza, Reddiyar Block No.1,
Sriram Nagar, Alagapuram Pudur,
Salem District - 636 016.

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



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CMA.No.2647 of 2024

R.HEMALATHA, J.

mtl

C.M.A.No.2647 of 2024

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CMA.No.2647 of 2024