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CMA.No.2092 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.2092 of 2024

Sakthi

... Appellant

VS.

1. K.Vidyasakar

2. The Branch Manager,
United India Insurance Company Limited,
Branch Office, Door No.26-3-2054/1,
1st Floor, Savithri Nagar,
Vedayapalem, Nellore - 524 004.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 22.03.2024 in M.C.O.P.No.1291/2018 on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri.

For Appellant : Mr.S.P.Yuvaraj
For R2 : Mrs.R.Rathna Thara

J U D G M E N T

Challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Krishnagiri in M.C.O.P.No.1291/2018, dated 22.03.2024, the appellant / claimant has filed the present appeal.



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2. The claim petition was filed by the appellant (herein) under

Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.35,00,000/- before MACT, Krishnagiri, for the death of his mother Ananthavalli, in a road accident which happened on 15.05.2018.

3. The brief case of the Appellant / claimant is as follows :

On 15.05.2018, Ananthavalli (deceased) was travelling as a pillion rider in a two wheeler driven by her husband Madhaiyan bearing Registration number TN-39-AF-0424, on Vaniyampadi - Bargur National Highways. When they were nearing a wholesale coconut shop on Bargur National Highways, a Mahindra XUV 500 car bearing Registration number TN-02-BA-6333 belonging to the 1st respondent came in the opposite direction and hit the two wheeler, as a result of which, Ananthavalli fell down and died on spot.

4. According to the claimant, the rash and negligent driving of the driver of the car bearing Registration number TN-02-BA-6333 was the cause of the accident and that since the said vehicle was insured with the second respondent, United India Insurance Company Limited, the



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owner and the insurer are jointly and severally liable to pay compensation to him.

5. In the Tribunal the first respondent 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.

6. The Tribunal, after analysing the evidence on record, awarded a compensation of Rs.8,08,250/- 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 22.03.2024.

7. Aggrieved over the quantum of compensation awarded by the Tribunal, the Appellant / claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, seeking enhancement of compensation amount.



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8. Heard Mr.S.P.Yuvaraj, learned counsel appearing for the Appellant and Mrs.R.Rathna Thara, learned counsel for the second respondent.

9. Mr.S.P.Yuvaraj, learned counsel for the Appellant contended that the deceased was aged 50 years and doing business in buying and selling clothes, earning a sum of Rs.25,000/- per month. However, the Tribunal had fixed a very meagre sum of Rs.7,500/-, as her monthly notional income. He therefore prayed for enhancing the notional income of the deceased.

10. Per contra Mrs.R.Rathna Thara, learned counsel appearing for the 2nd respondent, contended that the Award passed by the Tribunal is based on 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.

11. According to the claimant, his mother was aged 50 years and was earning a sum of Rs.25,000/- p.m., However, no income proof



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was filed. Considering the year of accident, the notional monthly income of the deceased is fixed as Rs.12,000/-. 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 % is added towards future prospects of the deceased. Since the claimant is the only dependent, 1/2nd of the deceased's income should be deducted towards her personal expenses. The deceased was aged 50 years on the date of the accident and the proper multiplier to be adopted in the instant case is 13 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.12,000/-

after adding 25% Future Prospects = Rs.15,000/-

After 1/2 deduction = Rs.7,500/-

Loss of dependency :

= Rs.7,500/- x 12 x 13

= Rs.11,70,000/-

In addition to that the claimant is entitled to Rs.40,000/-, Rs.15,000/- and Rs.15,000/- towards Loss of Consortium, Loss of Estate and Funeral



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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.12,40,000/- (11,70,000 + 40,000 + 15,000 + 15,000 = 12,40,000) 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.11,70,000 /-
2.	Loss of consortium	Rs.40,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.12,40,000/-

12. The compensation awarded by the Tribunal is enhanced from Rs.8,08,250/- to Rs.12,40,000/- which would carry interest at the rate of 7.5% per annum from the date of claim petition.

13. In the result,

- The Civil Miscellaneous Appeal is partly allowed. No costs.
- The compensation awarded by the Tribunal is enhanced from Rs.8,08,250/- to Rs.12,40,000/-.
- The Appellant / claimant is directed to pay court fee for the



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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 first respondent (owner) and the second respondent (the United India Insurance Company Limited) is joint and several and the second respondent is directed to deposit the enhanced compensation amount i.e., Rs.12,40,000/- (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 the order to the credit of M.C.O.P.No.1291/2018 on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri.
- v. On such deposit being made, the Appellant / claimant is at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. No costs.

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Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
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R.HEMALATHA, J.

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To

- 1.The Motor Accidents Claims Tribunal,
Special District Court, Krishnagiri
2. The Branch Manager,
United India Insurance Company Limited,
Branch Office, Door No.26-3-2054/1,
1st Floor, Savithri Nagar,
Vedayapalem, Nellore - 524 004.
- 3.The Section Officer, VR Section,
Madras High Court, Chennai.

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(1/2)