



C.M.A.No.2421 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

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1. Thangavel
2. Chellammal
3. Indhirani

... Appellants

vs.

National Insurance Company Limited,
Situating at K.K.Road, Muruga Theatre Complex,
Villupuram District.

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 01.04.2024 in M.C.O.P.456 of 2021 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Kallakurichi.

For Appellants : Mr.Amar D.Pandiya

For Respondent : Mr.J.Chandran

JUDGMENT

The appellants are the claimants in M.C.O.P.456 of 2021 on the file of the Motor Accident Claims Tribunal, Kallakurichi. They filed the claim



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petition under Section 166(1) of the Motor Vehicles Act, 1988 seeking compensation of Rs.50,00,000/- for the death of their grandson Mugil, in a road accident that took place on 08.02.2021.

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

On 08.02.2021, Mugil (since deceased) aged 15 years was travelling in a car bearing Registration Number TN-14-M-0421 on Kallakurichi - Chennai Highway. The driver of the car drove the car in a rash and negligent manner, as a result of which, Mugil sustained grievous injuries and died on spot.

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 said vehicle was insured with the respondent, the National Insurance Company Limited, Villupuram, the owner (since deceased) and the insurer are liable to pay compensation to them.

4. The respondent Insurance Company resisted the claim petition on all the grounds available to the insurer under Section 170 of



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the Motor Vehicles Act.

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5. The Tribunal after analysing the evidence on record fastened negligence on the part of the driver of the car and awarded compensation sum of Rs.7,38,600/- 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 01.04.2024.

6. Aggrieved over the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

7. Heard Mr.Amar D.Pandiya, learned counsel appearing for the appellants and Mr.J.Chandran, learned counsel appearing for the respondent.

8. Mr.Amar D.Pandiya, learned counsel for the appellants contended that the deceased was aged 15 years at the time of accident and was a school student. His parents predeceased him. However, the Tribunal



had taken the age of the second claimant (grandmother) for the purpose of applying multiplier, which, according to him, is erroneous. He therefore, prayed for enhancement of compensation.

9. Per contra Mr.J.Chandran, learned counsel appearing for the respondent, National Insurance Company Limited 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.

10. In ***Kishan Gopal and another vs. Lala and others*** reported in ***2013 (2) TN MAC 358***, the Hon'ble Supreme Court fixed the notional income of a minor child as Rs.30,000/- per annum and granted a sum of Rs.50,000/- under the other conventional heads. The accident in ***Kishan Gopal and another vs. Lala and others*** (cited supra) happened in the year 2013. In the present case, considering the passage of time and the age of the victim child, fixing Rs.7,000/- per month as notional income of the deceased would meet the ends of justice. The proper multiplier to be adopted in the instant case is 18, as per the decision in ***Sarla Verma and***



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others vs. Delhi Transport Corporation and another reported in (2009)

6 SCC 121. Calculation for loss of dependency is worked out here under.

Calculation :

Notional Income = Rs.7,000/- x 12 = Rs.84,000/-

Loss of dependency :

= Rs.84,000/- x 18

= Rs.15,12,000/-

In addition to that the claimants are entitled to Rs.80,000/- (40,000 x 2), Rs.15,000/- and Rs.15,000/- towards "Loss of Consortium, Funeral Expenses and Loss of Estate" respectively as per the decision in ***National Insurance Company Limited Vs. Pranay Sethi and others*** (cited supra).

Thus, the claimants are entitled to a total compensation of Rs. 16,22,000/- (15,12,000 + 80,000 +15,000 +15,000 = 16,22,000) as shown in the following tabular column.



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<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court (Rs.)</i>
1.	Loss of dependency	15,12,000/-
2.	Loss of consortium	80,000/-
3.	Funeral expenses	15,000/-
4.	Loss of Estate	15,000/-
Total		16,22,000/-

11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.7,38,600/- to Rs.16,22,000/- 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 from Rs.7,38,600/- to Rs.16,22,000/-.
- 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.



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iv. The respondent, the National Insurance Company Limited,

Villupuram, is directed to deposit the compensation amount i.e.,

Rs.16,22,000/- (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 to the credit of

M.C.O.P.456 of 2021 on the file of the Motor Accident Claims

Tribunal, Additional District Judge, Kallakurichi.

v. 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.

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Index : Yes/No

Speaking/Non-speaking order

mtl



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To

1. The Motor Accident Claims Tribunal,
Additional District Judge, Kallakurichi.
2. National Insurance Company Limited,
Situated at K.K.Road, Muruga Theatre Complex,
Villupuram District.
3. The Section Officer, V.R. Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

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