



CMA.No.2671 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2671 of 2024

1. Saravanan
2. Priyadharshini
3. Srinithi (Minor)
4. Tarun Balaji (Minor)

.... Appellants

3rd and 4th Minor appellants are represented by their Father
Next Friend & Natural Guardian Saravanan.

vs.

1. P. Sathiskumar
2. The United India Insurance Company Limited
Motor III Party Claims Office,
No.134, Greams Road, Chennai 600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 11.09.2023 in M.C.O.P.565/2021 on the file of the Motor Accident Claims Tribunal, Special Sub-court II, Chennai.

For Appellants	: Mr. K. Sivakumar
R1	: Notice dispensed with
For R2	: Mr. J. Michael Visuvasam

JUDGMENT



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The appellants are the claimants in M.C.O.P.565/2021 on the file of the Motor Accident Claims Tribunal, Special Sub-court II, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, seeking compensation of Rs.49,00,000/- for the death of one Sankari (wife of the first claimant and mother of claimants 2 to 4) in a road accident that occurred on 09.01.2021.

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

2.1. On 09.01.2021 Sankari (since deceased) was travelling as a pillion rider in a two wheeler bearing Registration number TN-22-DP-5168 on Pallavaram Radial Road and at about 11.40 hours, near Pallava garden, a speeding lorry bearing Registration Number TN-19-AM-2349, belonging to the first respondent, hit the two wheeler resulting in the instantaneous death of Sankari.

3. According to the claimants, the rash and negligent driving of the driver of the lorry bearing Registration Number TN-19-AM-2349, was the cause of the accident and that since the said lorry was insured with



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the second respondent, the United India Insurance Company Limited, Chennai, the owner and the insurer are jointly and severally liable to pay compensation to them.

4. In the Tribunal the owner of the lorry remained absent and was 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 rider of the lorry bearing Registration Number TN-19-AM-2349, and directed the second respondent, insurer of the said lorry, to pay compensation of Rs.16,52,500/- to the claimants together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The Tribunal also held that the liability of the Insurance Company and the owner of the lorry is joint and several.

6. Aggrieved over the quantum of compensation awarded by the



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

7. Heard Mr. K. Sivakumar, learned counsel appearing for the appellants and Mr. J. Michael Visuvasam, learned counsel appearing for the second respondent Insurance Company.

8. Mr. K. Sivakumar, learned counsel appearing for the appellants contended that the deceased was aged 47 years on the date of accident and was working as a yoga teacher earning a sum of Rs.18,000/- per month. However, the Tribunal fixed the notional monthly income of the deceased only as Rs.10,000/-. He therefore prayed for enhancement of compensation.

9. Per contra, Mr. J. Michael Visuvasam, learned counsel appearing for the second respondent/Insurance Company 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 in the present appeal.



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10. The deceased, in the instant case, was aged 47 years and there are four dependants. According to the claimants, the deceased was a yoga teacher earning a sum of Rs.18,000/- per month. In the absence of satisfactory income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.10,000/-. Considering the year of accident and the age of the deceased, this Court fixes the notional monthly income of the deceased as Rs.16,000/-. 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 deceased had four dependents, 1/4 is deducted towards her personal expenses. 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.16,000/-

25% Future Prospects = Rs.20,000/-

After 1/4 deduction = Rs.15,000/-



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Loss of dependency

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= Rs.15,000/- x 12 x 13

= Rs.23,40,000/-

In addition to that the claimants are entitled to Rs.1,76,000/- (44,000 x 4), 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).

10.1. The enhanced amount under the different heads are detailed hereunder:

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court (Rs.)</i>
1.	Loss of dependency	23,40,000/-
2.	Loss of consortium (Rs.44,000/- x 4)	1,76,000/-
3.	Funeral expenses	16,500/-
4.	Loss of Estate	16,500/-
	Total	25,49,000/-

This amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

11. In the result,

- The Civil Miscellaneous Appeal is partly allowed. No costs.



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- ii. The compensation awarded by the Tribunal is enhanced to Rs.25,49,000/-.
- 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.
- iv. The second respondent, the United Insurance Company Limited, Chennai, is directed to deposit the enhanced compensation amount of Rs.25,49,000/- (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 to the credit of M.C.O.P.565/2021 on the file of the Motor Accident Claims Tribunal, Special Sub-court II, Chennai, within a period of four weeks from the date of receipt of a copy of this order/uploading of this order.
- v. The enhanced compensation amount of Rs.25,49,000/- is apportioned to the claimants as follows:



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Saravanan (first claimant)	Rs.5,49,000/- with costs and interest
Priyadharshini (second claimant)	Rs.6,00,000/- with costs and interest
Minor Srinithi(third claimant)	Rs.7,00,000/-
Minor Tarun Balaji (fourth claimant)	Rs.7,00,000/-

vi. On such deposit being made, the claimants 1 and 2 are at liberty to withdraw the same as per the apportionment made by this Court after filing proper petition for withdrawal. Since the claimants 3 and 4 are minors, their share may be deposited in anyone of the nationalised banks until they attain majority.

vii.The appellants/claimants are not entitled to claim interest for the period of delay of 148 days in filing this appeal as per the orders of this Court dated 12.09.2024 in C.M.P. No.18782 of 2024.

01.10.2024

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

To

1. Motor Accident Claims Tribunal, Special Sub-court II, Chennai.



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2. The United India Insurance Company Limited
Motor III Party Claims Office,
No.134, Greams Road, Chennai 600 006.

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



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R.HEMALATHA, J.

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