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CMA.No.2305 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.Nos.2305 & 2036 of 2023

Sangeetha

... Appellant in both C.M.As.

vs.

1. K.Murugan

2. The Manager,

Reliance General Insurance Co. Ltd.,

Motor T.P.Claims,

No.6, Haddows Road,

Opp. Sasthiri Bhavan,

Nungambakkam, Chennai - 34.

... Respondents in both

C.M.As.

COMMON PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Award, dated 20.10.2022 in M.C.O.P.156/2021 & M.C.O.P.157/2021 on the file of the Motor Accident Claims Tribunal No.1, Special District Court, Tiruvallur.

in both C.M.As

For Appellants : Mr.U.Chithambaram

For R2 : Mr.P.Suresh Srinivasan

COMMON JUDGMENT

The appellant is the claimant in M.C.O.P.156/2021 &



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M.C.O.P.157/2021 on the file of the Motor Accident Claims Tribunal

No.1, Tiruvallur. She filed the claim petitions under Section 166 of the

Motor Vehicles Act & Rule 3 of M.A.C.T. Rules, seeking compensation of

Rs.20,00,000/- each, for the death of her children viz., Minor.Kanishka @

Kanishka Shriand, aged 6 years and Minor Tharun, aged 3 years

respectively, in a road accident that occurred on 16.03.2021.

2. The brief case of the appellant / claimant is as follows :

On 16.03.2021, Minor.Kanishka @ Kanishka Shriand, (deceased) aged 6 years and Minor Tharun, aged 3 years (deceased) were travelling as pillion riders in a two-wheeler bearing Registration number TN-21-AU-1227 on Tiruvallur - Kadambattur main road. When they were nearing Tirupachur, a speeding lorry bearing Registration number TN-21-AU-0072 came in the opposite direction and hit the two wheeler, as a result of which, both the children fell down and died on spot.

3. According to the claimant, the rash and negligent driving of the driver of the lorry bearing Registration number TN-21-AU-0072 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 and the insurer are jointly and severally liable to pay compensation to her.

4. In the Tribunal, the owner of the lorry 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.

5. The Tribunal after analysing the evidence on record, fastened negligence on the part of the driver of the lorry bearing Registration number TN-21-AU-0072 and awarded compensation of Rs.5,27,000/- each in M.C.O.P.156/2021 & M.C.O.P.157/2021, together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation, vide its orders dated 28.04.2023. The Tribunal also held that the liability of the owner of the lorry and the insurer is joint and several.

6. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellant / claimant has filed the present appeals under



Section 173 of the Motor Vehicles Act.

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7. Heard Mr.U.Chithambaram, learned counsel appearing for the appellant and Mr.P.Suresh Srinivasan, learned counsel for the second respondent.

8. Mr.U.Chithambaram, learned counsel appearing for the appellant/claimant relied on the decision of a single judge of this Court in ***M.Ganesamoorthy and others vs. The Managing Director, Tamil Nadu State Transport Corporation, Villupuram*** in ***C.M.A.Nos.2777 and 2778 of 2022 dated 19.03.2023*** and contended that this Court had fixed Rs.5,000/- as notional monthly income for a minor child aged 2½ years. He therefore prayed for enhancement of compensation.

9. Per contra, Mr.P.Suresh Srinivasan, learned counsel appearing for the second respondent / the Reliance General 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.



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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.5,000/- 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 15, as per the decision in ***Sarla Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121***. Calculation for loss of dependency is worked out here under.

Calculation :

$$\text{Notional Income} = \text{Rs.5,000/-} \times 12 = \text{Rs.60,000/-}$$

Loss of dependency :

$$= \text{Rs.60,000/-} \times 15$$

$$= \text{Rs.9,00,000/-}$$

In addition to that the claimant is entitled to Rs.44,000/-, Rs.16,500/- and Rs.16,500/- towards "loss of consortium, funeral expenses and loss of estate" respectively as per the decision in ***Reliance General Insurance***



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Company Limited Vs. Pranay Sethi and others (cited supra). Thus, the claimant is entitled to a total compensation of Rs.9,77,000 /- (9,00,000 + 44,000 +16,500 +16,500 = 9,77,000) in each case, as shown in the following tabular column.

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court (Rs.)</i>
1.	Loss of dependency	9,00,000/-
2.	Loss of consortium	44,000/-
3.	Funeral expenses	16,500/-
4.	Loss of Estate	16,500/-
Total		Rs.9,77,000/-

11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.5,27,000/- to Rs.9,77,000/- in each case, that would carry interest at the rate of 7.5% per annum.

12. In the result,

- The Civil Miscellaneous Appeals are partly allowed. No costs.
- The compensation awarded by the Tribunal is enhanced to Rs.9,77,000/- each in C.M.A.No.2305 of 2023 & C.M.A.No.2036 of 2023.



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- iii. The appellant / claimant is 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 liability of the first respondent (owner) and the second respondent (the Reliance General Insurance Company Limited) is joint and several and the second respondent / the Reliance General Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.9,77,000/- in each case (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.156/2021 & M.C.O.P.157/2021 respectively, on the file of the Motor Accident Claims Tribunal, Special District Court, Tiruvallur.
- v. On such deposit being made, the appellant, claimant is permitted to withdraw the same with accrued interest and costs, after following due process of law.



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Index : Yes/No

Speaking order / Non speaking order

Neutral Citation : Yes / No

vum

R.HEMALATHA, J.

vum

To

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

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

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