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CMA.No.2790 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2790 of 2024

1.Sathiabama

2.Sathya

... Appellants

vs.

1.Ramkumar

2.M/s. United India Insurance Company Limited,
Represented by its Divisional Office – II (HUB),
104-A, Peramanoor Main Road,
Salem.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 01.02.2024 in M.C.O.P.940 of 2023 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

For Appellants : Mr.S.P.Yuaraj

For R2 : Mr.J.Michael Visuvasam



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J U D G M E N T

The appellants are the claimants in M.C.O.P.940 of 2023 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.40,00,000/- for the death of one Selvaraj (husband of claimant 1 and father of claimant 2) in a road accident that occurred on 18.03.2023.

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

On 18.03.2023, Selvaraj (since deceased) was riding his two wheeler bearing Registration Number TN-42-V-8705 on Coimbatore - Kangeyam main road and at about 8.30 a.m., a speeding car bearing Registration Number TN-66-Y-6167 came in the opposite direction and hit the two wheeler driven by Selvaraj (deceased), resulting in his instantaneous death.

3. According to the claimants, the rash and negligent driving of the driver of the car bearing Registration Number TN-66-Y-6167 was the cause of the accident and that since the said vehicle was insured with the



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

4. In the Tribunal the owner of the car remained absent and was set *ex parte*. The second respondent, the United India 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 01.02.2024, fastened negligence on the part of the driver of the car bearing Registration Number TN-66-Y-6167 and further held that the owner of the car and the insurer are jointly and severally liable to pay compensation of Rs.8,05,000/- 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.S.P.Yuaraj, learned counsel appearing for the appellants and Mr.J.Michael Visuvasam, learned counsel appearing for the second respondent.

8. Mr.S.P.Yuaraj, learned counsel appearing for the appellants would contend that the deceased was working as a security in a private concern earning a sum of Rs.25,000/- 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 therefore, prayed for enhancement of compensation.

9. Per contra Mr.J.Michael Visuvasam, 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



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not be disturbed at this stage.

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10. In the claim petition, it is contended that the deceased was aged about 59 years and was working as a security in a private concern earning a sum of Rs.25,000/- 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 as Rs.15,000/- 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**, 10% is added towards future prospects of the deceased. Since there are five dependents, $\frac{1}{3}^{\text{rd}}$ of the deceased's income should be deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 9 as per the decision rendered in ***Sarla Verma and others vs. Delhi Transport Corporation and another*** reported in **(2009) 6 SCC 121**.



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Calculation

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Notional Income = Rs.15,000/-

10% Future Prospects = Rs.16,500/-

After 1/3 deduction = Rs.11,000/-

Loss of dependency

= Rs.11,000/- x 12 x 9

= Rs.11,88,000/-

In addition to that the claimants are entitled to Rs.88,000/- (44,000 x 2), 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.13,09,000/- (11,88,000 + 88,000 + 16,500 + 16,500 = 13,09,000) as shown in the following tabular column.



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<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs.11,88,000/-
2.	Loss of consortium (Rs.44,000/- x 2)	Rs.88,000/-
3.	Funeral expenses	Rs.16,500/-
4.	Loss of Estate	Rs.16,500/-
TOTAL		Rs.13,09,000/-

11. Thus, the compensation awarded by the Tribunal is enhanced to Rs.13,09,000/- 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.13,09,000/-.
- iii. The appellants / claimants are directed to pay the 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 India Insurance Company



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Limited, Salem, is directed to deposit the enhanced compensation amount i.e., Rs.13,09,000/- (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.940 of 2023 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

- 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.
- vi. The appellants/claimants are not entitled to claim any interest for the period of delay of 75 days in filing this appeal.

19.10.2024

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



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To
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- 1.The Motor Accidents Claims Tribunal,
Special District Court, Salem.
- 2.The United India Insurance Company Limited,
Represented by its Divisional Officer – II (HUB),
104-A, Peramanoor Main Road,
Salem.
- 3.The Section Officer, VR Section, Madras High Court, Chennai.

R.HEMALATHA, J.



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