



WEB COPY



C.M.A.No.2614 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2614 of 2024

1. E.Sargunadevi
2. K.B.Elangovan

... Appellants

VS.

1. M.Dhanalakshmi
2. United India Insurance Company Limited,
Motor Third Party Claims Hub,
Sillingi Building, 4th Floor,
No.132, Greams Road,
Chennai 600 006.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 08.07.2024 in M.C.O.P.339/2020 on the file of the Motor Accident Claims Tribunal, Chennai (Chief Judge, Court of Small Causes, Chennai).

For Appellants : Mr.K.Balaji
For R2 : Mr.K.Swaminathan

JUDGMENT

The appellants are the claimants in M.C.O.P.339/2020 on the file of the Motor Accident Claims Tribunal, Chennai. They filed the claim



C.M.A.No.2614 of 2024

petition under Sections 149 & 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.29,00,000/- for the death of their son E.Siyam Ganesh, in a road accident that took place on 08.10.2019.

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

On 08.10.2019, E.Siyam Ganesh (since deceased) aged 15 years was walking along Tambaram - Chengalpattu GST Road and when he was nearing Thailavaram, a speeding lorry bearing Registration number TN 34 S 6802, hit him, resulting in the instantaneous death of minor E.Siyam Ganesh.

3. According to the claimants, the rash and negligent driving of the driver of the lorry was the cause of the accident and that since the said vehicle was insured with 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 vehicle remained absent and was set *exparte*. The second respondent Insurance Company resisted



C.M.A.No.2614 of 2024

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 and directed the second respondent, the United India Insurance Company Limited to pay compensation of Rs.8,70,000/- 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 08.07.2024. 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 claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

7. Heard Mr.K.Balaji, learned counsel appearing for the appellants and Mr.K.Swaminathan, learned counsel appearing for the second respondent.



C.M.A.No.2614 of 2024

8. Mr.K.Balaji, learned counsel for the appellants contended that the deceased was aged 15 years at the time of accident and was a school student. However, the Tribunal had awarded a meagre amount towards compensation. He therefore, prayed for enhancement of the same.

9. Per contra Mr.K.Swaminathan, learned counsel appearing for the second respondent, United India 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 1992. 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



C.M.A.No.2614 of 2024

adopted in the instant case is 18, 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 :

$$\text{Notional Income} = \text{Rs.7,000/-} \times 12 = \text{Rs.84,000/-}$$

Loss of dependency :

$$= \text{Rs.84,000/-} \times 18$$

$$= \text{Rs.15,12,000/-}$$

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 Co. 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.



C.M.A.No.2614 of 2024

<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.8,70,000/- 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.8,70,000/- 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.



C.M.A.No.2614 of 2024

WEB COPY

- iv. The second respondent, the United India Insurance Company Limited, Chennai, 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.339/2020 on the file of the Motor Accident Claims Tribunal, Chennai (Chief Judge, Court of Small Causes, Chennai).
- 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.

14.10.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
vum

To

1. The Motor Accident Claims Tribunal,
Chennai.
(Chief Judge, Court of Small Causes, Chennai).
2. The Section Officer, V.R. Section, Madras High Court, Chennai.



WEB COPY



C.M.A.No.2614 of 2024

R.HEMALATHA, J.

vum

C.M.A.No.2614 of 2024

14.10.2024