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CMA.No.3391 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CMA.No.3391 of 2024

Rani

...Appellant

Vs.

P.Chandrasekar (*Died*)

1. The Manager,
Reliance General Insurance Co. Ltd.,
Heavitree 3rd Floor, 23, Spurtank Road,
Chetpet, Chennai – 600 031.

2. C.Jayanthi

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, seeking to allow this appeal by enhancing the award passed by the tribunal in MCOP.No.205 of 2014 dated 11.06.2024 on the file of the Additional District Judge, for Motor Accident Claims Cases – Chengalpattu.

For Appellant : Mr.S.Udhayakumar

For Respondents : Mrs.R.Sreevidhya, for R1
: No Appearance, for R2



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JUDGMENT

Challenging the judgment and decree dated 11.06.2024 made in MCOP.No.205 of 2014 on the file of the Additional District Judge, Motor Accident Claims Cases, Chengalpattu, the claimant has come up with this appeal.

2. Mrs.R.Sreevidhya, learned counsel takes notice on behalf of the 1st respondent. In view of the consent expressed by the learned counsel on either side, this appeal is taken up for final disposal at the admission stage itself.

3. It is the case of the appellant/claimant that, on 29.09.2013 at about 21.30 hours, when the deceased Senthil was proceeding from Chengalpattu to Tambaram on GST road in a Motor cycle bearing Regn.No.TN-09-A-3170, at that time a Motorcycle bearing Regn.No.TN-19-F-4573 owned and driven by the 1st respondent insured with the 2nd respondent came in a rash and negligent manner and dashed against the Motor cycle in which the deceased was travelling, due to which the said



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Senthil sustained grievous injuries and died on spot. Thereby, the appellant, who is mother of the deceased Senthil filed a claim petition in MCOP.No.205 of 2014 claiming a compensation of Rs.12,00,000/-. Before the Tribunal, the appellant/claimant examined herself as P.W.1 an eye witness was examined as P.W.2 and marked Exhibits P.1 to P.7 and on the side of the respondents, no documents were marked and no witnesses were examined. After trial, the Tribunal, on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place solely due to the rash and negligent driving on the part of the 1st respondent and awarded Rs.10,81,600/- towards compensation for the death of the deceased Senthil and directed the 2nd respondent to pay the above compensation. Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellant/claimant has come up with this appeal seeking enhancement of compensation.

4. Learned counsel for the appellant submitted that the above said accident happened solely due to the rash and negligent driving of the 1st respondent and the accident is of the year 2013 and at the time of accident, the deceased was aged about 27 years and was working as a



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two wheeler mechanic and was earning a sum of Rs.15,000/- per month, however, the tribunal had taken the notional income of the deceased as Rs.7,000/-, which is very meagre and the same is contrary to the ratio laid down by the Hon'ble Apex court in catena of decisions and thereby, the same has to be interfered with. Further, the compensation awarded under other heads are also on the lower side and the same needs to be enhanced. Accordingly, he prayed for appropriate orders.

5. Per contra, the learned counsel appearing on behalf of the 2nd respondent-Insurance Company contended that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

6. This Court has carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.



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7. The factum and manner of the accident is not disputed by the parties and the parties have not raised any issue on the aspect of negligence and therefore, this Court is not venturing into the same.

8. Insofar as the quantum of compensation fixed by the tribunal is concerned, the accident is of the year 2013 and at the time of accident, the deceased was aged about 27 years and he was a Two wheeler mechanic by profession, however, the Tribunal has fixed the notional monthly income at Rs.7,000/-, which is on the lower side. Applying the ratio laid down by the Hon'ble Supreme Court in the case of ***Syed Sadiq Vs. United India Insurance Company*** reported in **2014 (1) TANMAC 459**, and also considering the age of the deceased as also the claimant, fixing a notional income of Rs.12,000/- and adding future prospects at 40%, as has been held by the Constitution Bench in the case of ***National Insurance Company Limited Vs. Pranay sethi and others*** reported in **2017 (16) Supreme Court Cases 680**, the income per month is quantified at Rs.16,800/-. Deducting 50% towards the personal expenses of the deceased, the loss of income to the family is arrived at Rs.8,400/- per



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month and the deceased being aged about 27 years, as evidenced from the records, adopting the multiplier of 17 as fixed by the Apex Court in the case of *Sarla Verma and Ors. v. DTC & Ors.* reported in (2009) 6 *SCC 121*, the loss of income to the family is arrived at Rs.8,400/- * 12 * 17 = Rs.17,13,600/-.

9. Insofar as the compensation awarded under the other heads are concerned, the tribunal had awarded a compensation of Rs.16,500/-, Rs.16,500/- and Rs.44,000/- under the heads funeral expenses, loss of estate and loss of consortium, which are on the higher side and thereby, the same is reduced to Rs.15,000/-, Rs.15,000/- and Rs.40,000/- respectively.

10. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of dependency	9,99,600/-	17,13,600/-
Loss of consortium	44,000/-	40,000/-
Transport to hospital	5,000/-	5,000/-
Loss of estate	16,500/-	15,000/-
Funeral Expenses	16,500/-	15,000/-
Total	10,81,600/-	17,88,600/-

11. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Tribunal in MCOP.No.205 of 2014 is modified by enhancing the compensation amount from Rs.10,81,600/- to **Rs.17,88,600/-**. The 1st respondent is directed to deposit the said amount to the credit of MCOP.No.205 of 2014 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. The appellant is directed to pay requisite court fee on the enhanced compensation. On such deposit being made, the Tribunal is directed to transfer the award



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amount directly to the bank account of the appellant/claimant through RTGS within a period of two weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. It is underscored that the appellant is not entitled to any interest for the default period, if any. No costs.

21.12.2024

skt

NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No

To:

1. The Additional District Judge for Motor Accident Claims Cases,
Chengalpattu.
2. The Section Officer,
V.R. Section, High Court, Madras.



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M.DHANDAPANI, J.

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