



WEB COPY



CMA.Nos.2791 of 2024 and 2236 of 2023
and C.M.P. No.22595 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CMA.Nos.2791 of 2024 and 2236 of 2023

and

C.M.P. No.22595 of 2024

C.M.A. No.2791 of 2024

The Manager,
Cholamandalam MS General Insurance
Company Limited,
No.163-A, Thambu Chetty Street,
2nd Floor, Parrys, Chennai - 1.

... Appellant

VS.

1. T.Maheswari
2.C.Thulasingam
3.T.Divya
4.S.Palani

... Respondents

C.M.A. No.2236 of 2023

1. T.Maheswari
2.C.Thulasingam
3.T.Divya

... Appellants

VS.

1. S.Palani



CMA.Nos.2791 of 2024 and 2236 of 2023
and C.M.P. No.22595 of 2024

2. The Manager,
Cholamandalam MS General Insurance
Company Limited,
No.163-A, Thambu Chetty Street,
2nd Floor, Parrys, Chennai - 1.

.... Respondents

COMMON PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 31.01.2023 in M.C.O.P.5/2019 on the file of the Motor Accident Claims Tribunal, Small Causes Court No.II, Chennai.

Appearance in C.M.A. No.2791 of 2024

For Appellant : Ms.R.Sreevidhya

For RR1 to 3 : Mr.K.Varadhakamaraj

Appearance in C.M.A. No.2236 of 2023

For Appellants : Mr.K.Varadhakamaraj

For R2 : Ms.R.Sreevidhya

COMMON JUDGMENT

The appellant, the Cholamandalam MS General Insurance Company Limited in C.M.A.No.2791/2024 is the second respondent in M.C.O.P.5/2019 on the file of the Motor Accident Claims Tribunal, Small Causes Court, Chennai and the appellants in C.M.A.No.2236/2023 are the claimants in the said petition.



CMA.Nos.2791 of 2024 and 2236 of 2023
and C.M.P. No.22595 of 2024

WEB COPY

2. The claimants filed the above said claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.50,00,000/- for the death of one Ramya (daughter of claimants 1 and 2 and sister of claimant 3) in a road accident that occurred on 24.09.2018.

3. The brief case of the claimants is as follows :

On 24.09.2018, Ramya (since deceased) was riding a two wheeler bearing Registration Number TN-04-AP-1917 on Wall Tax Road near Elephant Gate Police Station and at about 21.50 hours, a speeding load van bearing Registration Number TN-20-CZ-0677 hit the two wheeler driven by Ramya (deceased) resulting in her instantaneous death.

4. According to the claimants, the rash and negligent driving of the driver of the load van bearing Registration Number TN-20-CZ-0677, was the cause of the accident and that since the said vehicle was insured with the Cholamandalam MS General Insurance Company Limited, Chennai, both the owner and the insurer are jointly and severally liable to pay compensation to them.



CMA.Nos.2791 of 2024 and 2236 of 2023
and C.M.P. No.22595 of 2024

WEB COPY

5. In the Tribunal, the owner of the van remained absent and was set *ex parte*. The appellant, the Cholamandalam MS General Insurance Company Limited resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

6. The Tribunal, vide its orders dated 31.01.2023, fastened negligence on the part of the driver of the load van bearing Registration Number TN-20-CZ-0677 and further held that the owner of the vehicle and the insurer are jointly and severally liable to pay compensation of Rs.20,69,000/- to the claimants 1 and 3, together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The Tribunal dismissed the claim petition as against the claimant 2.

7. Aggrieved over the quantum of compensation awarded by the Tribunal, both the appeals are filed.



CMA.Nos.2791 of 2024 and 2236 of 2023
and C.M.P. No.22595 of 2024

8. Heard Ms.R.Sreevidhya, learned counsel for the Insurance Company and Mr.K.Varadhakamaraj, learned counsel for the claimants.

9. Mr.K.Varadhakamaraj, learned counsel for the claimants contended that the deceased was working as a beautician earning a sum of Rs.30,000/- per month. However, the Tribunal fixed the notional monthly income of the deceased only as Rs.10,000/-, which, according to him, is very meagre. He therefore, prayed for enhancement of the notional monthly income of the deceased.

10. Per contra Ms.R.Sreevidhya, learned counsel for the Insurance Company contended that the deceased was a bachelor and the Tribunal had wrongly deducted 1/3 towards her personal expenses. She therefore prayed for setting aside the order of the Tribunal.

11. In the claim petition, it is contended that the deceased was working as a beautician earning a sum of Rs.30,000/- per month. The claimants have filed the Diploma Certificate in Bridal Makeup (Ex.P7) issued to Ramya (since deceased). In the absence of satisfactory income



CMA.Nos.2791 of 2024 and 2236 of 2023
and C.M.P. No.22595 of 2024

proof, the Tribunal fixed the notional monthly income of the deceased as Rs.10,000/-. The accident took place in the year 2018 and the deceased was aged 28 years on the date of accident. In the circumstances, 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**, 40% is added towards future prospects of the deceased. The deceased died as a bachelor and hence, 50% is deducted towards her personal expenses. The proper multiplier to be adopted in the instant case is 17 as per the decision rendered in *Sarla Verma and others vs. Delhi Transport Corporation and another* reported in **(2009) 6 SCC 121**.

Calculation

Notional Monthly Income = Rs.15,000/-

40% Future Prospects = Rs.21,000/-

After 1/2 deduction = Rs.10,500/-



CMA.Nos.2791 of 2024 and 2236 of 2023
and C.M.P. No.22595 of 2024

Loss of dependency

WEB COPY

$$= \text{Rs.}10,500/- \times 12 \times 17$$

$$= \text{Rs.}21,42,000/-$$

In addition to that the claimants are entitled to Rs.1,20,000/- (40,000 x 3), Rs.15,000/- and Rs.15,000/- 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.22,92,000/- (21,42,000 + 1,20,000 + 15,000 + 15,000= 22,92,000) as shown in the following tabular column.

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs.21,42,000/-
2.	Loss of consortium (Rs.40,000/- x 3)	Rs.1,20,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.22,92,000/-

12. Thus, the compensation awarded by the Tribunal is enhanced



CMA.Nos.2791 of 2024 and 2236 of 2023
and C.M.P. No.22595 of 2024

to Rs.22,92,000/- which would carry interest at the rate of 7.5% per annum.

WEB COPY

13. In the result,

i. The Civil Miscellaneous Appeals are partly allowed. No costs.

Consequently, connected Civil Miscellaneous Petition is closed.

ii. The compensation awarded by the Tribunal is enhanced to Rs.22,92,000/- with interest at the rate of 7.5% per annum.

iii. The claimants 1 and 3 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 Cholamandalam MS General Insurance Company Limited, Chennai, is directed to deposit the enhanced compensation amount, i.e., Rs.22,92,000/- (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.5/2019 on the file of the Motor Accident Claims Tribunal, Small Causes Court No.II, Chennai, within a period of four weeks from the date of



CMA.Nos.2791 of 2024 and 2236 of 2023
and C.M.P. No.22595 of 2024

receipt of a copy of this order / uploading of this order.

WEB COPY

- v. On such deposit being made, the claimants 1 and 3 are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law.

23.10.2024

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

To

9/11

<https://www.mhc.tn.gov.in/judis>



CMA.Nos.2791 of 2024 and 2236 of 2023
and C.M.P. No.22595 of 2024

1.The Motor Accident Claims Tribunal,
Small Causes Court No.II, Chennai.

2.The Manager,
Cholamandalam MS General Insurance
Company Limited,
No.163-A, Thambu Chetty Street,
2nd Floor, Parrys, Chennai - 1.

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



WEB COPY



CMA.Nos.2791 of 2024 and 2236 of 2023
and C.M.P. No.22595 of 2024

R.HEMALATHA, J.
mtl

CMA.Nos.2791 of 2024 and 2236 of 2023
and C.M.P. No.22595 of 2024

23.10.2024