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C.M.A.No.197 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.12.2024

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
and

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.No.197 of 2023 and Cross Objection No.28 of 2023

and

C.M.P.No.1618 of 2023

C.M.A.No.197 of 2023

United India Insurance Co.Ltd.,
Motor Third Party Claims HUB,
Silingi Building, 4th Floor,
No.134, Greams Road,
Chennai – 600 006

... Appellant

Vs.

1. Ravi,
F/o Late Manikandan

2. Priya,
M/o Late Manikandan

3. G.Rajagopalan,
S/o S.K.R.Gopala Desikan

4. Srinivasacheer
S/o B.Seshachar

5. The New India Insurance Co.Ltd.,
Motor Third Party Claims HUB,
No.45, Moore Street, Chennai – 600 001

... Respondents



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Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor vehicles Act, 1988 against the award and decree dated 30.11.2021 made in MCOP.No.6525 of 2015 on the file of the Motor Accidents Claims Tribunal IV Court of Small Causes, Chennai.

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.V.Tamilamudhu
for R1 and R2
R3 & R4-not served
Mr.R.Neethiperumal for R5

Cross Objection No.28 of 2023

1. Ravi,
F/o Late Manikandan

2. Priya,
M/o Late Manikandan

... Appellants

Vs.

1. United India Insurance Co.Ltd.,
Motor Third Party Claims HUB,
Silingi Building, 4th Floor,
No.134, Greams Road,
Chennai – 600 006

2. G.Rajagopalan,
S/o S.K.R.Gopala Desikan

3. Srinivasacheer
S/o B.Seshachar



C.M.A.No.197 of 2023

4. The New India Insurance Co.Ltd.,
Motor Third Party Claims HUB,
No.45, Moore Street,
Chennai – 600 001

... Respondents

Prayer: This Cross Objection has been filed under Order 41 Rule 22 of CPC against the award and decree dated 30.11.2021 made in MCOP.No.6525 of 2015 on the file of the Motor Accidents Claims Tribunal IV Court of Small Causes, Chennai, seeking enhancement of compensation.

For Appellants : Mr.V.Tamilamudhu

For Respondents : Mr.S.Arun Kumar
for R1
R2 & R3-not served
Mr.R.Neethiperumal for R4

COMMON JUDGMENT

(The judgment of the Court was delivered by J.Nisha Banu,J.)

The Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company against the award dated 30.11.2021 made in MCOP.No.6525 of 2015 on the file of the Motor Accidents Claims Tribunal IV Court of Small Causes, Chennai, and the Cross Objection has been filed by the appellants/claimants seeking enhancement of compensation.

2. For the sake of convenience, the appellant/Insurance Company in CMA.197/2023 is called as the Appellant and the 1st and 2nd



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respondents/ claimants in CMA.197/2023 are called as respondents/claimants.

3. The respondents/claimants have filed a claim petition stating that on 31.03.2015 at about 16.15 hours, the deceased was a pillion rider riding in his Bajaj Pulsar motorcycle bearing registration No.TN-22-CH-9321 from SRM College to Guduvancheri at Chengalpattu to Tambaram direction GST road, in the wrong side. At that time, the Splendor Plus motorcycle bearing registration TN-07-AX-2396 driven in a rash and negligent manner came from Chennai to Chengalpattu direction and both the vehicle colluded against each other. The deceased sustained fatal injuries and died on the same day at 19.30 hrs. The accident occurred due to the fault of both motor cycle riders Bajaj Pulsar bearing registration No.TN-22-CH-9321 and Splendor Plus bearing registration No.TN-07-AX-2396. The first respondent is the owner of the the Bajaj Pulsar bearing registration No.TN-22-CH-9321 and it has been insured with the United India Insurance Company/2nd respondent therein and the third respondent therein is the owner of the Splendor Plus bearing registration No.TN-07-AZ-2396 and it has been insured with the New India Insurance Co.Ltd., the 4th respondent therein. The 1st respondent and 3rd



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respondent therein being the owners of the vehicles and the 2nd and 4th respondents being the insurers are vicariously and statutorily liable to pay the compensation of Rs.2,00,00,000/-.

4. The appellant Insurance Company has challenged the Award on the ground that the quantum of compensation awarded by the Tribunal to the claimants is excessive. According to the appellant, the fixation of notional income and granting 40% towards future prospects and the amount awarded towards loss of love and affection are on the higher side.

5. The Tribunal, under the impugned award, directed the Appellant/Insurance Company to pay the respondents/claimants, a compensation of Rs.31,59,000/-(Rupees thirty one lakhs fifty nine thousand only), under various heads, as detailed hereunder :

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>
Loss of dependency	30,24,000
Loss of estate	15,000
Funeral expenses	15,000
Loss of love and affection	1,00,000
Transportation expenses	5,000
Total	31,59,000



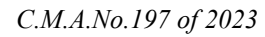
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6. The deceased Manikandan was a B-Tech. Mechanical Engineering student. The claimants/ respondents are the father and mother of the deceased respectively.

7. The Tribunal has assessed the notional monthly income of the deceased as Rs.20,000/- and adding 40% towards future prospects, fixed the annual income of the deceased as Rs.3,36,000/- (Rs.2,40,000 + 40%) and after deducting 1/2 towards his personal expenses as the deceased is a bachelor, fixed his contribution to the family as Rs.1,68,000/- per year. Considering the age of the deceased as 21 years, applying the multiplier 18, the Tribunal fixed the loss of income as Rs.30,24,000/- (1,68,000x18).

8. Insofar as the fixation of the monthly income of the deceased is concerned, the Tribunal, following the decision reported in 2016(2) TN MAC 424 (DB), fixed the notional income of the deceased as Rs.20,000/-. In the said case, though the deceased was a final year Engineering student, the deceased had filed IT Returns and that he was holding shares in companies run by his family and also getting Rs.1,00,000/- p.a. from other sources. In the present case, the accident



9. Further, we are of the view that the amount of Rs.1,00,000/- awarded by the Tribunal towards loss of love and affection and 40% towards future prospects are reasonable and therefore, the same need not be interfered with.



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10. For the foregoing reasons, this Court is of the considered view that except the above the modification in respect of notional income of the deceased, the amount as assessed by the Tribunal under the impugned award, warrants no interference.

11. In the light of the above, the compensation awarded by the Tribunal is hereby modified as under:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency Rs.1,51,200 x 18	30,24,000	27,21,600	Reduced
2.	Loss of estate	15,000	15,000	Confirmed
3.	Funeral expenses	15,000	15,000	Confirmed
4.	Loss of love and affection	1,00,000	1,00,000	Confirmed
5.	Transportation expenses	5,000	5,000	Confirmed
	Total	Rs.31,59,000	Rs.28,56,600/-	Reduced by Rs.3,02,400/-

12. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.31,59,000/- is hereby reduced to Rs.28,56,600/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The



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appellant-Insurance Company is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs. Consequently, the Cross Objection filed by the claimants is dismissed. The connected miscellaneous petition is closed.

(J.N.B, J.) (R.S.V., J.)
12.12.2024

vsi

To

The Motor Accidents Claims Tribunal,
IV Court of Small Causes,
Chennai.



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J. NISHA BANU, J.
and
R. SAKTHIVEL, J.

vsi

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