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CMA.No.2981 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2981 of 2022 and
C.M.P.No.23812 of 2022

United India Insurance Company Limited,
Silingi Building, No.134, Greams Road,
Chennai 600 006.

... Appellant

vs.

1. S. Shaheen
2. S. Sakina Banu -Minor
3. S. Syed Iman- Minor

(Respondents 2 & 3 minors are represented by their mother and natural guardian the 1st respondent herein)

4. D. Prabakaran

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 11.10.2022 in M.C.O.P.4666/2019 on the file of the Chief Judge, Court of Small Causes, Motor Accident Claims Tribunal, Chennai.

For Appellant : Mr.D. Bhaskaran
For R1 to R3 : Mr. R. Dinesh Kumar
R2 : No appearance.



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J U D G M E N T

The appellant, the United India Insurance Company Limited filed the present appeal questioning the quantum of compensation awarded by the Tribunal in M.C.O.P.4666/2019 on the file of the Chief Judge, Court of Small Causes, Motor Accident Claims Tribunal, Chennai.

2. The respondents 1 to 3 /claimants filed a claim petition in M.C.O.P.4666/2019 under Section 166 of the Motor Vehicles Act and Rule 3 of MACT Rules, before the Motor Accident Claims Tribunal, Chennai, seeking compensation of Rs.1,50,00,000/- for the death of one S. Syed Ghouse (husband of the first claimant and father of the claimants 2 and 3) in a road accident that occurred on 18.06.2019.

3. The case of the claimants is that on 18.06.2019 Syed Ghouse (since deceased) was riding his two wheeler bearing Registration Number TN-05-BD-7718 near Sharma Nagar, Chennai and at about 10.40 hours, a lorry bearing Registration number TN69-B-9634 belonging to one



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Prabakaran, the fourth respondent herein, hit him as a result of which Syed Ghouse sustained injuries all over his body. He was immediately rushed to Hospital. However, he succumbed to injuries on the way to hospital.

4. According to the claimant, the accident took place due to the rash and negligent driving of the driver of the lorry bearing Registration number TN69-B-9634 and that since the said lorry was insured with the present appellant, the United India Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to them.

5. In the Tribunal, the fourth respondent, the owner of the motorcycle remained absent and was set *ex parte*. The appellant/Insurance Company resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor vehicles Act.

6. The Tribunal, after analysing the evidence on record, fastened negligence on the part of the driver of the lorry and directed the



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appellant Insurance Company to pay compensation of Rs.34,55,000/- to the claimants 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 11.10.2022. The Tribunal also held that the liability of the Insurance Company and the owner of the lorry are joint and several.

7. Aggrieved over the quantum of compensation awarded by the Tribunal, the present appeal is filed by the appellant / United India Insurance Company Limited.

8. Heard Mr.D. Bhaskaran, learned counsel for the appellant and Mr. R. Dinesh Kumar, learned counsel for the respondents 1 to 3/claimants.

9. Mr.D. Bhaskaran, learned counsel for the appellant Insurance Company contended that the claimants did not adduce any evidence to show that the deceased was a proprietor of M/s. Sony Garments. However, the Tribunal had fixed the notional monthly income of the deceased as Rs.25,000/-. He therefore prayed for scaling down the Award



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amount passed by the Tribunal.

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10. Per contra, Mr. R. Dinesh Kumar, learned counsel for the respondents 1 to 3/claimants relied on the Registration certificate of M/s.Sony Garments (Ex.P7) and contended that the deceased was actually running a garment shop earning a sum of Rs.1,00,000/- per month. However, the Tribunal had fixed the notional monthly income of the deceased only as Rs.25,000/-, which, according to him, is very much on the lower side. He therefore prayed for enhancement of compensation.

11. The claimants though had contended that the deceased was earning a sum of Rs.1,00,000/- per month, no documentary evidence was adduced by them. In the circumstances, based on the Registration Certificate of M/s.Sony Garments, it cannot be concluded that the deceased was earning a sum of Rs.1,00,000/- per month. The accident took place in the year 2016 and the deceased was aged 44 years. Considering the same, the notional monthly income of the deceased is fixed as Rs.14,000/-. 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, 25% is added towards future prospects of the deceased.

Since the deceased has three dependents, 1/3 should be deducted towards his personal expenses. The deceased was aged 44 years on the date of the accident and the proper multiplier to be adopted in the instant case is 14 as per the decision rendered in *Sarla Verma and others vs. Delhi Transport Corporation and another* reported in **(2009) 6 SCC 121**.

Calculation

Notional Income = Rs.14,000/-

25% Future Prospects = Rs.17,500/-

After 1/3 deduction = Rs.11,666/-

Loss of dependency

= Rs.11,666/- x 12 x 14

= Rs.19,59,888/-

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).



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11.1. The enhanced amount under the different heads are detailed hereunder:

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court (Rs.)</i>
1.	Loss of dependency	19,59,888/-
2.	Loss of consortium (Rs.40,000/- x 3)	1,20,000/-
3.	Funeral expenses	15,000/-
4.	Loss of Estate	15,000/-
	Total	21,09,888/-

This amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

12. In the result,

i. The Civil Miscellaneous Appeal is allowed. No costs.

Consequently connected miscellaneous petition is closed.



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ii. The quantum of compensation awarded by the Tribunal is scaled down to Rs.21,09,888/- from Rs.34,55,000/-.

iii. The appellant/Insurance company is directed to deposit a sum of Rs.21,09,888/-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.A.C.T.O.P. 4666/2019 on the file of the Chief Judge, Motor Accident Claims Tribunal, Chennai. The appellant is at liberty to withdraw the excess amount, deposited by them, over and above the compensation awarded by this court.

iv. The modified compensation amount of Rs.21,09,888/-, is apportioned to the claimants as stated below:

S. Shaheen (first claimant)	Rs.7,09,888/- with costs and interest
Minor. S. Sakina Banu (second claimant)	Rs.7,00,000/-
Minor S. Syed Iman (third claimant)	Rs.7,00,000/-

v. On such deposit being made, the first claimant is at liberty to



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withdraw her share as per the apportionment made by this Court, with costs and interest, after filing a proper petition for withdrawal. Since the claimants 2 and 3 are minors, their share, shall be deposited in a fixed deposit in any one of the Nationalised banks until they attain majority.

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Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
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R.HEMALATHA, J.

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To

1. Chief Judge, Motor Accident Claims Tribunal, Chennai
2. The Section Officer,
VR Section, Madras High Court, Chennai.

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C.M.P.No.23812 of 2022

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