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CMA.No.352 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.352 of 2024

1. Shyamlal

2. Deepak

3. Minor.Pooja
(Minor represented by her father and
natural guardian Shyamlal)

... Appellants

vs.

1. Sri Sodambikai Transport,
Old No.100, New No.158,
1st Floor, Room No.10,
Coral Merchant Street,
Chennai - 600 001.

2. The Reliance General Insurance Company Limited,
Legal Department,
No.6, Reliance House, 4th Floor,
Haddows Road, Nungambakkam, Chennai - 600 034.

3.S.Thiruchelvan

4. The Reliance General Insurance Company Limited,
Legal Department,
No.6, Reliance House, 4th Floor,
Haddows Road, Nungambakkam, Chennai - 600 034.

... Respondents



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 17.07.2023 in M.C.O.P. 2240 of 2021 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellants : Mr.U.Chithambaram

R1 : No appearance

For R2 : Ms.G.Sukumari

J U D G M E N T

The appellants are the claimants in M.C.O.P. 2240 of 2021 on the file of the Motor Accident Claims Tribunal, Small Causes Court, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.49,00,000/- for the death of one Pankaj Chouhan, (son of claimant 1 and brother of claimants 2 and 3) in a road accident that occurred on 11.04.2021.

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

On 11.04.2021, Pankaj Chouhan (since deceased) was riding his motorcycle bearing Registration Number TN-18-Q-8346 on Ponneri -



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Chennai Highways. When he was nearing Manali Pudhu Nagar, a container lorry bearing Registration Number TN-28-BE-7509 was parked on the main road without any indicator or signal, as a result of which, the two wheeler driven by Pankaj Chouhan hit the lorry and was ran over by another container lorry bearing Registration Number TN-20-BR-8850. He died on spot.

3. According to the claimants, the negligent parking of the container lorry bearing Registration Number TN-28-BE-7509 on the road and rash and negligent driving of the driver of the another container lorry bearing Registration Number TN-20-BR-8850 were the cause of the accident. Since the said vehicles were insured with the respondents 2 and 4, the owners and their respective insurers are jointly and severally liable to pay compensation to them.

4. In the Tribunal the owners of the two container lorries remained absent and were set *ex parte*. The respondents 2 and 4 resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.



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5. The Tribunal, vide its orders dated 17.07.2023, fastened negligence on the part of the drivers of the container lorries bearing Registration Numbers TN-28-BE-7509 and TN-20-BR-8850 in the ratio 50:50 and also held that the owners of the vehicles and their respective insurers are jointly and severally liable to pay compensation of Rs.8,91,800/- each (50% of the total compensation of Rs.17,83,600/-) to the first claimant together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation. The Tribunal dismissed the claim petition as against the claimants 2 and 3.

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.U.Chithambaram, learned counsel appearing for the appellants and Ms.G.Sukumari, learned counsel appearing for the second respondent.



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8. Mr.U.Chithambaram, learned counsel appearing for the appellants contended that Pankaj Chouhan (since deceased) was working in a private concern earning a sum of Rs.20,000/- per month. However, the Tribunal fixed the notional monthly income of the deceased only as Rs.12,000/-, which, according to him, is very meagre. He therefore, prayed for enhancement of the notional monthly income of the deceased.

9. Per contra Ms.G.Sukumari, learned counsel appearing for the second respondent 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 at this stage.

10. A perusal of the records shows that Pankaj Chouhan (since deceased) was a graduate in Bachelor of Business Administration (B.B.A.) and was working in a private concern as a System Admin. According to the claimants, his monthly income was Rs.20,000/-. In the absence of



satisfactory income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.12,000/-. The accident took place in the year 2021 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 at Rs.18,000/- 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 his 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.18,000/-

40% Future Prospects = Rs.25,200/-

After 1/2 deduction = Rs.12,600/-

Loss of dependency

= Rs.12,600/- x 12 x 17

= Rs.25,70,400/-



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In addition to that the claimants are entitled to Rs.1,32,000/- (44,000 x 3), Rs.16,500/- and Rs.16,500/- 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.27,35,400/- (25,70,400 + 1,32,000 + 16,500 + 16,500= 27,35,400) 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.25,70,400/-
2.	Loss of consortium (Rs.40,000/- x 3)	Rs.1,32,000/-
3.	Funeral expenses	Rs.16,500/-
4.	Loss of Estate	Rs.16,500/-
Total		Rs.27,35,400/-

11. Thus, the compensation awarded by the Tribunal is enhanced to Rs.27,35,400/- which would carry interest at the rate of 7.5% per annum.



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12. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced to Rs.27,35,400/- with interest at the rate of 7.5% per annum.
- iii. The first appellant / claimant is 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 respondents 2 and 4 are directed to deposit the enhanced compensation amount of Rs.27,35,400/- in the ratio 50:50 i.e., Rs.13,67,700/- each (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 / uploading of this order to the credit of M.C.O.P. 2240 of 2021 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.



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- v. On such deposit being made, the first appellant / claimant is at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law.
- vi. The first appellant / claimant is not entitled to claim interest for the period of delay of 20 days in filing this appeal.

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



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To

1.The Motor Accidents Claims Tribunal,
Chief Judge, Small Causes Court, Chennai.

2. The Reliance General Insurance Company Limited,
Legal Department,
No.6, Reliance House, 4th Floor,
Haddows Road, Nungambakkam, Chennai - 600 034.

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



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R.HEMALATHA, J.

mtl

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