IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.402 of 2024

1. M. Lakshmi
2. M. Dineshkumar .... Appellants

vs.

1. M. Lokesh

2.Reliance General Insurance Company Limited
Reliance House, No.6, Haddows Road,
Nungambakkam, Chennai 600 034. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 18.11.2019 in M.C.O.P.6256/2018 on the file of the Chief Judge, Court of Small Causes, Motor Accident Claims Tribunal, Chennai.

For Appellants	:	Mr. Amar Dineshbhai Pandiya
R1	:	No appearance
For R2	:	Mr. P. Suresh Srinivasan

J U D G M E N T

The appellants are the claimants in M.C.O.P.6256/2018 on the file of the Chief Judge, Court of Small Causes, Motor Accident Claims Tribunal, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of MACT Rules seeking compensation of Rs.25,00,000/- for the death of one Murthy (husband of the first claimant and father of the second claimant) in a road accident that occurred on 18.05.2018.

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

2.1. On 18.05.2018 Murthy (since deceased) was travelling as a pillion rider in a motorcycle bearing Registration Number TN-18-J-0878 and he was proceeding towards Pudunagar Railway Bridge, Athipattu. The rider of the said motorcycle drove the vehicle in a rash and negligent manner as a result of which Murthy fell down and sustained injuries all over his body. He was immediately rushed to a hospital. However, he succumbed to injuries on the way to hospital.

3. According to the claimants, the rash and negligent driving of the driver of the motorcycle bearing Registration Number TN-18-J-0878, was the cause of the accident and that since the said vehicle was insured with the second respondent, the Reliance General Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to them.

4. In the Tribunal the owner of the motorcycle remained absent and was set *ex parte*. The second respondent insurance company resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

5. The Tribunal after analysing the evidence on record fastened negligence on the part of the rider of the motorcycle bearing Registration Number TN-18-J-0878, and directed the second respondent, insurer of the said motorcycle, to pay compensation of Rs.11,41,000/- 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

18.11.2019. The Tribunal also held that the liability of the Insurance Company and the owner of the motorcycle are joint and several.

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. Amar Dineshbhai Pandiya, learned counsel appearing for the appellants and Mr.P. Suresh Srinivasan, learned counsel appearing for the second respondent Insurance Company.

8. Mr. Amar Dineshbhai Pandiya, learned counsel appearing for the appellants contended that though the deceased was a cook earning a sum of Rs.20,000/- per month, the Tribunal fixed the notional monthly income of the deceased only as Rs.12,000/- He therefore prayed for enhancement of compensation.

9. Per contra, Mr.P. Suresh Srinivasan, learned counsel appearing for the second respondent/Insurance Company 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 in the present appeal.

10. In the absence of satisfactory income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.12,000/-. Considering the year of accident and the age of the deceased, this Court fixes the notional monthly income of the deceased as Rs.14,000/-. As per the postmortem certificate, the age of the deceased was 55 years. 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,*** 10% is added towards future prospects of the deceased. Since the deceased had two dependents, 1/3 is deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 11 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/-

10% Future Prospects = Rs.15,400/-

After 1/3 deduction = Rs.10,266/-

Loss of dependency

= Rs.10,266/- x 12 x 11

= Rs.13,55,112/-

In addition to that the claimants are entitled to Rs.80,000/- (40,000 x 2), 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).

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

S.No.	***Head***	***Amount granted by this court (Rs.)***
1.	Loss of dependency	13,55,112/-
2.	Loss of consortium (Rs.40,000/- x 2)	80,000/-
3.	Funeral expenses	15,000/-
4.	Loss of Estate	15,000/-
	Total	14,65,112/-

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

11. In the result,

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

ii. The compensation awarded by the Tribunal is enhanced to Rs.14,65,112/-.

iii. The appellants / claimants are directed to pay 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 second respondent, the Reliance General Insurance Company Limited, Chennai, is directed to deposit the enhanced compensation amount of Rs.14,65,112/- (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.6256/2018 on the file of the Chief Judge, Court of Small Causes, Motor Accident Claims Tribunal, Chennai, within a period of four weeks from the date of receipt of a copy of this order/uploading of this order. The ratio of apportionment made by the Tribunal shall be kept intact.

v. On such deposit being made, the appellants are at liberty to withdraw their share as per the apportionment made by the Tribunal after filing a proper petition for withdrawal.

vi. The appellants/claimants are not entitled to claim interest for the period of delay of 609 days in filing this appeal as per the orders of this Court dated 01.02.2024 in C.M.P. No.28150 of 2023.

26.09.2024

Index : Yes/No
Speaking/Non-speaking order

bga

To

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

2. Reliance General Insurance Company Limited
   Reliance House, No.6, Haddows Road,
   Nungambakkam, Chennai 600 034.

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

R.HEMALATHA, J.

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