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C.M.A.No.878 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.878 of 2023

1. Muruganandam
2. Mallika
3. Minor Bhuvaneswari,
Rep. by guardian and father
Muruganandam
... Appellants
vs.

1. G.Kalaiselvi
2. M/s.United India Insurance Company Limited,
Salem - 7
... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 27.01.2003 in M.C.O.P.217/2001 on the file of the Motor Accident Claims Tribunal, Fast Track Court No.II, Salem.

For Appellants : Ms.D.Sathya
For R2 : Mrs.I.Malar

JUDGMENT

The appellants are the claimants in M.C.O.P.217/2001 on the file of the Motor Accident Claims Tribunal, Salem. They filed the claim petition under Sections 166 of the Motor Vehicles Act, 1988 r/w. Rule 3 of the



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Motor Accident Claims Tribunal Rules, 1961, seeking compensation of Rs.5,00,000/- for the death of one Anguraj (son of the claimants 1 and 2 and brother of the third claimant), in a road accident that took place on 28.10.2000.

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

On 28.10.2000, Anguraj (since deceased) aged 15 years was travelling as a pillion rider in a two-wheeler bearing Registration number TN 28 W 0366 on Tiruchengode & Aanangur main road. When he was nearing Muniyappan kovil, a speeding mini lorry bearing Registration number TN 28 U 1114 driven by its driver rashly and negligently, hit the two wheeler, as a result of which, Anguraj sustained injuries all over his body and died on spot.

3. According to the claimants, the rash and negligent driving of the driver of the mini lorry was the cause of the accident and that since the said vehicle was insured with the second respondent, the United India Insurance Company Limited, Salem, the owner and the insurer are jointly and severally liable to pay compensation to them.



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4. In the Tribunal, the owner of the vehicle remained absent and was set *exparte*. 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 driver of the lorry and directed the second respondent, the United India Insurance Company Limited to pay compensation of Rs.50,000/- together with interest at the rate of 9% per annum from the date of petition till the date of realisation, vide its orders dated 27.01.2003. The Tribunal also held that the liability of the owner of the mini lorry and the insurer is 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 Ms.D.Sathya, learned counsel appearing for the appellants and Mrs.I.Malar, learned counsel appearing for the second



respondent.

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8. Ms.D.Sathya, learned counsel for the appellants contended that the deceased was aged 15 years at the time of accident. However, the Tribunal had awarded a meagre amount towards compensation. He therefore, prayed for enhancement of the same.

9. Per contra Mrs.I.Malar, learned counsel appearing for the second respondent, United India Insurance Company Limited 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.

10. In *Kishan Gopal and another vs. Lala and others* reported in **2013 (2) TN MAC 358**, the Hon'ble Supreme Court fixed the notional income of a minor child as Rs.30,000/- per annum and granted a sum of Rs.50,000/- under the other conventional heads. The accident in *Kishan Gopal and another vs. Lala and others* (cited supra) happened in the year 1992. In the present case, the accident took place in the year 2000 and



hence this Court is of the opinion that fixing Rs.30,000/- as notional annual income of the deceased would meet the ends of justice. The proper multiplier to be adopted in the instant case is 15, as per the decision in ***Sarla Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.***

Calculation :

Notional Income = Rs.30,000/- x 15 = Rs.4,50,000/-

Other conventional heads = Rs.50,000/-

= Rs.4,50,000 + Rs.50,000/-

= Rs.5,00,000/-

11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.50,000/- to Rs.5,00,000/- that would carry interest at the rate of 7.5% per annum.

12. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.50,000/- to Rs.5,00,000/-.
- iii. The appellants / claimants are directed to pay court fee for the



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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 United India Insurance Company Limited, Chennai, is directed to deposit the compensation amount i.e., Rs.5,00,000/- (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 within a period of four weeks from the date of receipt of a copy of this order to the credit of M.C.O.P.217/2001 on the file of the Motor Accident Claims Tribunal, Fast Track Court No.II, Salem.
- v. On such deposit being made, the appellants / claimants are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.
- vi. The appellants / claimants are not entitled to claim any interest for the period of delay of 260 days in filing this appeal.

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Index : Yes/No

Speaking/Non-speaking order



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Neutral Citation : Yes / No

vum

To

1. The Motor Accident Claims Tribunal,
Fast Track Court No.II, Salem
2. The Section Officer, V.R. Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

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