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C.M.A.No.3558 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3558 of 2024

And

C.M.P.No.30056 of 2024

TATA AIG General Insurance Company Ltd.,
represented by its Manager,
A.6, 6th Floor, Trade World,
Kamala Mills Compound,
Senapati Bagpat Marg, Lower Parel,
Mumbai.400 013.

... Appellant

Vs.

1.Meenatchi
2.Periyasamy
3.Gopi
4.P.Sandhiya

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award dated 10.11.2023 made in M.C.O.P.No.65 of 2022, on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Palacode, and be pleased to dismiss the above claim.

For Appellant : Mr.K.Vinod

For Respondents : Mr.S.Udhayakumar for R1 to R3

R4 – Exparte vide order dt.23/8/24



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J U D G M E N T

The second respondent before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed against the award dated 10.11.2023 passed by the Motor Accidents Claims Tribunal (Subordinate Judge), Palacode, in M.C.O.P.No.65 of 2022.

2.The learned counsel appearing for the appellant submitted that the respondents 1 to 3 claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.20 Lakhs alleging that on 08.04.2022 at about 07.00 hours, the deceased Settu was riding the motorcycle bearing Registration No.TN-24-W-6856 from Karimangalam to Krishnagiri road in South to North direction near Kattur Anchaneyar Koil in Dharmapuri to Krishnagiri NH Road. At that time, the driver of the Eicher Multix MX Vehicle bearing Registration No.TN-29-BC-9166 belonging to the fourth respondent and insured with the appellant drove the vehicle in a rash and negligent manner and dashed against the motorcycle, due to which, the deceased died on the spot. After adjudication, the Tribunal awarded a sum of Rs.18,12,400/- as compensation to the claimants along with interest at 7.5% p.a. from the date of filing of the claim petition till the realisation



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with costs and directed the appellant to deposit the amount.

3.The learned counsel appearing for the appellant further submitted that the rider of the motorcycle drove the vehicle in a rash and negligent manner and dashed against the lorry. Though the law enforcing agency registered the case as against the driver of the lorry insured with the appellant, mere registration of F.I.R., is not sufficient to hold that the driver of the vehicle insured with the appellant is at fault. The learned counsel further submitted that the Tribunal ought to have fixed the notional income of the deceased as Rs.17,000/-, however, the Tribunal fixed the notional income of the deceased as Rs.18,000/- and awarded a sum of Rs.17,42,400/- as compensation for loss of dependency, which is onerous, however, the learned counsel fairly submitted that the amount awarded towards consortium is meagre.

4.The learned counsel appearing for the respondents 1 to 3/ claimants submitted that the Tribunal after considering all the factual aspects, awarded compensation which is just and reasonable and the same warrants no interference.



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5. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents 1 to 3 and perused the materials available on record.

6. In order to prove the case, the wife of the deceased examined herself as P.W.1 and one Perumal was examined as P.W.2 and exhibits Ex.P1 to Ex.P18 were marked. The appellant examined the Special Sub Inspector of Police as R.W.1 and marked exhibits Ex.R1 to Ex.R3. Neither the fourth respondent nor the appellant examined any independent eye witness, thereby, the Tribunal fastened the entire liability as against the appellant, which warrants no interference.

7. Insofar as the quantum of compensation is concerned, the tribunal after elaborately discussing the factual aspects awarded a sum of Rs.17,42,400/- for loss of dependency, Rs.40,000/- for loss of consortium, Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and arrived at a total compensation of Rs.18,12,400/- with interest at the rate of 7.5% p.a. from the date of filing of the claim petition till the realisation.



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8.The accident took place during the year 2022 and at the time of accident, the age of the deceased was 53 years. In the absence of any income proof, the applicable notional income at the relevant point of time is Rs.17,000/-. Hence this Court fix the notional monthly income of the deceased as Rs.17,000/-. The Tribunal has rightly awarded 10% future prospects and has rightly deducted 1/3 of the amount towards personal expenses. Hence, the amount awarded for loss of dependency works out to Rs.16,45,600/- [$\text{Rs.17,000/-} \times 10\% = \text{Rs.1,700/-}$; $\text{Rs.17,000/-} + \text{Rs.1,700/-} = \text{Rs.18,700/-}$; $\text{Rs.18,700} \times \frac{1}{3} = \text{Rs.6,233.33}$; $\text{Rs.18,700/-} - \text{Rs.6,233.33} = \text{Rs.12,466.67}$; $\text{Rs.12,467/-} \times 12 \times 11 = \text{Rs.16,45,644/-}$ rounded off to Rs.16,45,600/-].

9.The amount awarded under the head loss of consortium, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded for loss of consortium is enhanced to Rs.1,20,000/- from Rs.40,000/-. The amount awarded under the other heads, in the opinion of this Court are just and reasonable and the same are confirmed.



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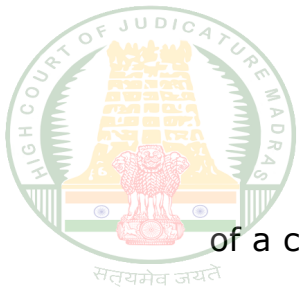
WEB COPY 10. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of dependency	Rs.17,42,400/-	Rs.16,45,600/-
2.	Loss of consortium	Rs. 40,000/-	Rs. 1,20,000/-
3.	Loss of estate	Rs. 15,000/-	Rs. 15,000/-
4.	Funeral expenses	Rs. 15,000/-	Rs. 15,000/-
	Total	Rs.18,12,400/-	Rs.17,95,600/-

11. The first respondent claimant is entitled to total compensation of Rs.17,95,600/- along with interest at the rate of 7.5% p.a. from the date of filing of the claim petition till the realisation

12. The civil miscellaneous appeal is partly allowed. The judgment and decree dated 10.11.2023 passed by the Motor Accidents Claims Tribunal (Subordinate Judge), Palacode, in M.C.O.P.No.65 of 2022, is modified to the above extent.

13. The appellant Insurance Corporation is directed to deposit the modified award amount before the Tribunal less the amount already deposited if any, within a period of six weeks from the date of receipt



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of a copy of this judgment. The appellant is permitted to withdraw the excess amount, if any, already deposited by them.

14.On such deposit, the respondents 1 to 3/ claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

15.The civil miscellaneous appeal is partly allowed. No costs. Consequently, the connected miscellaneous petition is closed.

07.01.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
(Subordinate Judge), Palacode.



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