IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :25.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.511 of 2025

Reliance General Insurance Co., Limited
Plot No.6, 6th floor, Haddows Road,
Nungambakkam, Chennai-600 034 ... Appellant

Vs.

1. Ammu
2. Jenifer
3. Jaikumar
4. Karolin
5. J.Rajesh ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, against the judgment and decree dated 29.02.2024 made in MCOP.No.5855 of 2019 on the file of the Motor Accident Claims Tribunal, Chief Court of Small Causes, Chennai.

For Appellants : Mrs.R.Sree Vidhya

For respondents : Mr. Teri Chellaraja for R1 to R4
R5-Exparte

JUDGMENT

Not satisfied with the quantum of compensation fixed by the Motor Accident Claims Tribunal, the insurance company has come before this court by way of this appeal.

2. It is not in dispute that the husband of the 1st claimant, father of the claimants 2 and 3 and son of the 4th claimant, Arun, died in a road accident that had taken place on 01.10.2019. It is the case of the claimants that while he was walking along Semmanjeri OMR Road near Aalamaram bus stop, a car bearing registration number TN11A5782 came from South to North direction in a rash and negligent manner and dashed against the victim. As a result of which, he suffered head injury and died. The claimants preferred the claim petition seeking compensation of Rs.48,00,000/-. The Tribunal awarded a compensation of Rs.22,80,000/-. Aggrieved by the quantum of compensation, the insurer of the car has come before this court by way of this appeal

3.Before the Tribunal, the first respondent, owner of the car, remained *ex-parte* and the claim petition was contested only by the insurance company.

4. Heard the arguments of Mrs.R.Sree Vidhya, the learned counsel for the Appellant and Mr.Teri Chellaraja, learned counsel, who takes notice for the respondents 1 to 4 /claimants. Both the learned counsel have not advanced any arguments on the questions of negligence as well as liability. Hence, the facts necessary for deciding those questions are not discussed in this appeal.

5. The learned counsel for the Appellant submitted that the claimants have not produced any document to prove the avocation and income of the deceased. However, the Tribunal fixed the notional income at Rs.16,000/- and the same is on the higher side. The learned counsel also submitted that the Tribunal fixed the age of the deceased at 48 years without any acceptable evidence available on record.

6. The learned counsel for the respondents 1 to 4/claimants submitted that the accident had occurred in the year 2019 and hence,

the amount of Rs.16,000/- fixed as notional income by the Tribunal is justified. He further submitted that the Tribunal, based on the death report and post-mortem certificate, fixed the age of the victim as 48 years and the same requires no interference.

7. As far as the age of the victim is concerned, in Exhibit P3, Death Report and Exhibit P4, Postmortem Certificate, the age of the deceased had been mentioned as 48 years. The Appellant/Insurance Company, during cross-examination of PW1, made various suggestions that her husband was aged about 52 years at the time of accident. However, the said suggestions were denied by PW-1. The Tribunal further found that PW-1, in her evidence, asserted that there was a difference of 8 years between herself and her husband. As per Exhibit P6, Aadhar Card, the date of birth of PW-1 was mentioned as 15.12.1982. Therefore, at the time of accident, the age of PW-1 should be 36 years. If 8 years is added to that, the age of the deceased should be taken as 44 years. The Tribunal, taking into consideration the evidence of PW-1 and documentary evidence Exhibit P-3 and Exhibit P-4, fixed the age of the deceased at 48 years and the same requires no

interference.

8. The accident had occurred in the year 2019. In the claim petition, it was stated by the claimants that the deceased was employed as Carpenter and used to earn a sum of Rs.1000/- per day. Even if they have not produced any documentary evidence to prove the income of the deceased, taking into consideration the year of accident and the prevailing cost of living, this court feels that the amount of Rs. 16,000/- fixed by the Tribunal cannot be said to be in excess. Therefore, the notional income fixed by the Tribunal is also confirmed. Taking into consideration the age of the deceased, 25% enhancement towards future prospects was given and multiplier 13 was adopted. Since there are four dependents, as per the law laid down in ***Sarla Verma case,*** the Tribunal should have deducted only one-fourth of the amount. However, in the case on hand, one-third of the amount has been deducted. Therefore, by invoking power of this court under Order XLI Rule 33, this court is inclined to interfere with the award passed by the Tribunal and deduct only one-fourth of the amount. Therefore, the loss of dependency is assessed as Rs. 23,40,000/-.

16,000 x 1.25 x 12 x 13 x 3/ 4= Rs.23,40,000/-

9. The amount awarded under various other heads like loss of estate, loss of consortium, funeral expenses and transportation charges are confirmed. Accordingly, a sum of Rs. 22,80,000 awarded by the tribunal is enhanced to Rs.25,40,000/-. The award passed by the Tribunal is modified as follows:-

Sl. No	**Description**	**Amount awarded by Tribunal (Rs)**	**Amount awarded by this Court (Rs)**	**Award confirmed or enhanced or granted**
1.	Loss of dependency	20,80,000/-	23,40,000/-	Enhanced
2.	Loss of estate	15,000/-	15,000/-	Confirmed
3.	Loss of Consortium	1,60,000/-	1,60,000/-	Confirmed
4.	Funeral expenses	15,000/-	15,000/-	Confirmed
5.	Transportation Expenses	10,000/-	10,000/-	Confirmed
	Total	**22,80,000/-**	**25,40,000/-**	**Enhanced by Rs.2,60,000/-**

10. In view of the discussions made earlier, the appeal filed by the insurance company is dismissed. However, by invoking power under Order XLI Rule 33, the award amount is enhanced to Rs.25,40,000/- The appellant/ Insurance Company is directed to deposit the entire award amount along with interest and costs, less the amount already deposited, if any, before the Tribunal within a period of four weeks from the date of receipt of copy of this Judgment. On such deposit, the respondents 1 to 4/ claimants are permitted to withdraw the same along with interest and costs, less the amount if any, already withdrawn, by making proper application before the Tribunal. Consequently, the connected miscellaneous petition is closed. No costs.

25.02.2025

Index:Yes
Internet:Yes
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To

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

2. The Section Officer,
   VR Section,
   High Court, Madras.

S.SOUNTHAR, J.

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CMA No.511 of 2025

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