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CMA.No.3569 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CMA.No.3569 of 2024

1. Amirtham
 2. Ramasamy
 3. M.Navaneetham
- ...Appellants

Vs.

1. V.Mari
 2. The Manager,
Reliance General Insurance Company Limited,
Motor Third Party Claims Office,
Reliance Towers,
3rd Floor, No.6, Haddows Road,
Nungambakkam, Sastri Bhavan,
Chennai – 6.
- ...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 16.09.2019 made in M.C.O.P.No.646 of 2017, on the file of Motor Accident Claims Tribunal, (District & Sessions Judge, Additional District Court Fast Track Court), Kanchipuram.



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For Appellants : Mr.K.Varadha Kamarajan

For Respondents : Mrs.R.Sreevidhya for R2

JUDGMENT

Challenging the decree and judgment dated 16.09.2019 made in M.C.O.P.No.646 of 2017, on the file of Motor Accident Claims Tribunal, (District & Sessions Judge, Additional District Court Fast Track Court), Kanchipuram, the claimants have filed the above appeal.

2. Mrs.R.Sreevidhya, learned counsel takes notice on behalf of the 2nd respondent. In view of the consent expressed by the learned counsel for the appellant and the second respondent, this appeal is taken up for final disposal at the admission stage itself.

3. It is the case of the claimants that, on 16.07.2017 at about 5.30 p.m., when the deceased was riding a two-wheeler bearing Regn.No.TN 21 AP 7554, a TATA ACE vehicle bearing Reg.No.TN-25-AW-0081 owned by the 1st respondent insured with the 2nd respondent driven by its driver in a rash and negligent manner came in the opposite direction and



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dashed against the two wheeler in which the deceased was travelling, due to which the deceased sustained grievous injuries and succumbed to the same. Thereby, the appellants, who are the dependents of the deceased filed a claim petition in MCOP.No.646 of 2017 claiming a compensation of Rs.25,00,000/-.

4. Before the Tribunal, the appellants examined P.W.1 and P.W.2 and marked Exhibits P.1 to P.8 and on the side of the respondents, no documents were marked and no witnesses were examined. After trial, the Tribunal, on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place solely due to the rash and negligent driving on the part of the driver of the 1st respondent and awarded Rs.11,28,400/- towards compensation for the death of the deceased and held that the 1st and 2nd respondents are jointly and severally liable to pay the above compensation. Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellants/claimants have come up with this appeal seeking enhancement of compensation.



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5. Learned counsel for the appellants submitted that the above said accident happened solely due to the rash and negligent driving on the part of the driver of the 1st respondent and the accident is of the year 2017 and at the time of accident, the deceased was aged about 20 years and was working in a Private company earning a sum of Rs.20,000/- per month, however, the tribunal had taken the notional income of the deceased as Rs.7,000/-, which is very meagre and the same is contrary to the ratio laid down by the Hon'ble Apex court in catena of decisions and thereby, the same has to be interfered with. Further, the compensation awarded under other heads are also on the lower side and the same needs to be enhanced. Accordingly, he prayed for appropriate orders.

6. Per contra, the learned counsel appearing on behalf of the 2nd respondent-Insurance Company contended that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

7. This Court has carefully considered the submissions made by



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the learned counsel on either side and perused the materials available on record.

8. The factum and manner of the accident is not disputed by the parties and the parties have not raised any issue on the aspect of negligence and therefore, this Court is not venturing into the same.

9. Insofar as the quantum of compensation fixed by the tribunal is concerned, the accident is of the year 2017 and at the time of accident, the deceased was aged about 20 years and he was working in a private company, however, the Tribunal has fixed the notional monthly income at Rs.7,000/-, which is on the lower side. Applying the ratio laid down by the Hon'ble Supreme Court in the case of *Syed Sadiq Vs. United India Insurance Company* reported in *2014 (1) TANMAC 459*, and also considering the age of the deceased as also the claimants, fixing a notional income of Rs.13,000/- and adding future prospects at 40%, as has been held by the Constitution Bench in the case of *National Insurance Company Limited Vs. Pranay sethi and others* reported in



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2017 (16) Supreme Court Cases 680, the income per month is quantified at Rs.18,200/- (13,000 + 5,200). Since the deceased died as a bachelor, 50% has to be deducted towards personal expenses. After deducting 50% towards personal expenses, the monthly income of the deceased would be at Rs.9,100/- (Rs.18,200 – 50% of Rs.18,200) and as per the Judgment of the Hon'ble Apex Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TN MAC 1 (SC), the right multiplier to be adopted is '18' and hence, the loss of income would be at Rs.19,65,600/- (Rs.9,100 x 12 x 18).

10.The tribunal had awarded a compensation of Rs.40,000/- under the head loss of consortium, since the deceased is a bachelor the compensation under the said head cannot be given. Hence, the dependents are entitled to get a sum of Rs.40,000/- each as compensation under the head “loss of love and affection”. Insofar as the other heads are concerned, they are just and reasonable and the same need not be interfered with.

11. In the above circumstances, the compensation awarded by the



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Tribunal is modified as under :-

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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of income	10,58,400/-	19,65,600/-
Funeral expenses	15,000/-	15,000/-
Loss of consortium	40,000/-	-
Loss of love and affection	-	1,20,000/-
Loss of estate	15,000/-	15,000/-
Total	11,28,400/-	21,15,600/-

12. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Tribunal in MCOP.No.646 of 2017 is modified by enhancing the compensation amount from Rs.11,28,400/- to **Rs.21,15,600/-**. The 2nd respondent Insurance company is directed to deposit the said amount to the credit of MCOP.No.646 of 2017 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. In the above compensation, the appellants 1 and 2 are entitled to Rs.8,50,000/-



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each and the 3rd appellant is entitled to a sum of Rs.4,15,600/- with proportionate interest and costs. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellants/claimants through RTGS within a period of two weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. It is underscored that the appellants are not entitled to any interest for the default period, if any. No costs.

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



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1.Motor Accident Claims Tribunal, (District & Sessions Judge,
Additional District Court Fast Track Court), Kanchipuram.

2. The Section Officer,
V.R. Section, High Court, Madras.



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M.DHANDAPANI, J.

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