



C.M.A.(MD)No.607 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2025

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

C.M.A.(MD)No.607 of 2018

and

C.M.P.(MD)No.7048 of 2018

The Branch Manager,
Reliance General Insurance Company Ltd.,
Tiruchi.

... Appellant

-Vs-

1.Ponnualagu
2.Minor R.Harish
3.Minor R.Thavapriya
4.Minor R.Sathish
5.Poornam

... Respondents 1 - 5 / claimants 1 - 5

K.Iqbal (died)

6.Hairoon Beevi
7.Minor Sharmila
8.Minor Tahir Banu
9.Minor Kamrunish

... Respondents 6 - 9 / Respondents 3 - 6

(Minor respondents 2 to 4 are represented by their mother and natural guardian,
the 1st respondent herein)

(Minor respondents 7 to 9 are represented by their mother and natural guardian,
the 6th respondent herein)

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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying this Court to set aside the award and decree dated 04.05.2017 passed in M.C.O.P.No.96 of 2013 on the file of the Motor Accident Claims Tribunal, Additional District Court, Pudukkottai.

For Appellant : Mr.K.Gokul
For R1 to R4 : Mr.A.Arun Prasad
For R5 : No Appearance

JUDGMENT

DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

This appeal is preferred by the Insurance Company being aggrieved by the quantum fixed by the Tribunal for the road accident causing death of one Rajendran, aged about 40 years on the date of accident. The claimants are the wife, three children and mother of the deceased.

2.According to the claimants, on 23.02.2013, while the deceased was travelling in his two wheeler bearing Registration No.TN 55 AE 0711 towards Lena Vilakku to purchase medicine, the 1st respondent in his two wheeler bearing Registration No.TN 55 AC 1710 rash and negligently hit the deceased causing serious head injury and he was taken to the hospital for treatment. However, he



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succumbed to the injury on 01.03.2013. At the time of death, the deceased was hale and healthy and earning around Rs.13,000/- from his agricultural land and as a Mason. Hence, the claim of Rs.40,00,000/- was made by the claimants as against the Insurance Company. The liability and quantum was denied by the Insurance Company.

3.The Tribunal, after considering the evidence let in by the claimants, particularly, medical bills and the evidence of P.W.1 and P.W.2, had held that the accident occurred due to rash and negligence of the offending vehicle driven by the 1st respondent and since the Insurance Company has indemnified the 1st respondent, the claimants are entitled for total sum of Rs.15,13,300/-. The Tribunal has fixed a sum of Rs.7,500/- as notional income of the deceased.

4.In the present appeal, it is contended by the learned counsel for the appellant that the claimants have not produced any evidence to substantiate the claim of the income of the deceased and the veracity of the medical bills produced by the claimants is highly doubtful. Further, the Tribunal erred in awarding a sum of Rs.15,13,300/- along with interest at the rate of 7.5% per annum, which includes a sum of Rs.75,000/- each for the claimants 2, 3, 4 towards loss of love and affection.



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5.He would further submit that as per the dictum laid down in the case of ***National Insurance Co. Ltd., v. Pranay Sethi*** reported in **2017(2) TNMAC 609 (SC)**, for the loss of consortium, the award cannot be more than Rs.40,000/-.

6.Per contra, the learned counsel appearing for the respondents 1 to 4 would submit that if the dictum laid down in ***Pranay Sethi's*** case as referred to above is to be applied, though the accident occurred prior to the judgment, then for the loss of income, the Tribunal ought to have added future prospects also, wherein in this case, no additional compensation was paid for future prospects.

7.Regarding the fixation of Rs.7,500/- per month as notional income per month, the learned counsel for the respondents 1 to 4 would submit that since the deceased was a Mason by profession and holding agricultural land, a sum of Rs.7,500/- per month fixed as notional income is very nominal.

8.This Court, after giving anxious consideration to the rival submissions, finds that the Tribunal has properly appreciated the evidence let in by the parties and has arrived at just conclusion, fixing a sum of Rs.15,13,300/- along with interest at the rate of 7.5%, which is just fair and equitable.



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9. In view of the above, this Civil Miscellaneous Appeal is dismissed. If the appellant has not so far deposited the award amount with interest, they are directed to take steps to do so, within a period of six weeks from today. No costs. Consequently, connected miscellaneous petition is closed.

[G.J., J.] & [R.P., J.]

06.02.2025

NCC : Yes / No

Index : Yes / No

Yuva

To

1. The Additional District Court,
Motor Accident Claims Tribunal,
Pudukkottai.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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