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C.M.A.No.970 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.970 of 2022

and

C.M.P.Nos.7177 & 11757 of 2022

Reliance General Insurance Company Limited,
represented by its Manager, Unnati Aarcade,
5/111 & 6/112, 1st Floor,
1st Block, Dr.Rajakumar Road,
1st Main Road, Rajaji Nagar,
Bangalore – 560 010.

... Appellant

Vs

1.C.Yellappa
2.Manjula
3.Minor. Nathiya
4.Minor. Jayaprakash

(R3 and R4 – minors represented by their
N.F. Father C.Yellappa)

5.V.Mamtha

... Respondents



C.M.A.No.970 of 2022

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree made in M.C.O.P.No.168 of 2018, dated 08.08.2019, on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri.

For Appellant : M/s.M.B.Gopalan Associates
For R1 to R4 : Mr.E.Kannadasan
For R5 : No appearance

JUDGEMENT

The Insurance Company has challenged the award passed by the Motor Accidents Claims Tribunal, Special District Court, Krishnagiri in M.C.O.P.No.168 of 2018 on the ground of quantum.

2.The petitioners had filed the above claim petition seeking compensation for the death of one Sujatha in a road accident which took place on 14.08.2017. It is their case that on the said date, the vehicle in which the deceased was travelling was hit from the rear by the car belonging to the first respondent and insured with the second respondent/Insurance Company.



C.M.A.No.970 of 2022

WEB COPY

3.The Tribunal below has fastened the liability on the driver of the first respondent's car and awarded a sum of Rs.21,01,000/- as compensation. The Insurance Company has challenged the quantum of compensation granted by the Tribunal.

4.Further, it is their case that the deceased Sujatha claimed to be an Agricultural Coolie earning a monthly income of a sum of Rs.10,000/-. The Tribunal below has taken the entire amount as the notional income though there is no proof for the same.

5.The learned counsel appearing for the petitioners/respondents would submit that the Tribunal has not granted any amount under the head of transportation, loss of love and affection on the lines of the judgment of the Hon'ble Supreme Court in the case of *National Insurance Company Limited Vs. Pranay sethi and others reported in 2017 (16) Supreme Court Cases 680*.



C.M.A.No.970 of 2022

WEB COPY

6.Heard the learned counsel appearing for the appellants and the learned counsel for the respondents 1 to 4 and perused the materials available on record.

7.Considering the fact that the accident is of the year 2017 and the deceased is claimed to be an Agricultural Coolie, the adoption of the notional income of Rs.10,000/- appears to be very reasonable. I see no reason to interfere with the above. As rightly pointed out by the learned counsel appearing for the respondents 1 to 4, the first respondent has been granted only a sum of Rs.25,000/- under the head of loss of consortium though he is entitled to a sum of Rs.40,000/-. Therefore, the amount under this head is enhanced to a sum of Rs.40,000/- and the respondents 2 to 4 have been granted a compensation for loss of love and affection only to a sum of Rs.25,000/-, which has to be enhanced to a sum of Rs.1,20,000/- (Rs.40,000/- x 3). The Tribunal has awarded a sum of Rs.20,000/- under the head of loss of estate, which has to be reduced to a sum of Rs.15,000/-. Therefore, the modified compensation is as follows:



C.M.A.No.970 of 2022

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Loss of dependency	20,16,000	20,16,000
Loss of Consortium	25,000	40,000 (enhanced)
Loss of Estate	20,000	15,000 (reduced)
Funeral expenses	15,000	15,000
Love and Affection (40,000 x 3)	25,000	1,20,000 (enhanced)
Total	21,01,000	22,06,000

8. When the claim petition was filed in the year 2018, the respondents 3 and 4 were aged about 16 and 14 years. Now, the respondents 3 and 4 should be aged about 20 and 18 years and are therefore, major. Though no application has been taken out to declare them as major, this Court *suo motu* takes into account the age given in the claim petition and also taking into account the efflux of time, declares the respondents 3 and 4 as major and discharges their father Mr.C.Yellappa from the guardianship. The Registry shall carry out the necessary amendments.



C.M.A.No.970 of 2022

WEB COPY

9.The appeal is dismissed and the Award of the Tribunal is modified, enhancing the compensation amount from **Rs.21,01,000/-** to **Rs.22,06,000/-**. The Appellant-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.168 of 2018 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 six weeks from the date of receipt of a copy of this judgment. The said amount shall be apportioned amongst the claimants as per the Award of the Tribunal. On such deposit being made, the respondents 1 to 4/claimants are permitted to withdraw the award amount falling to their share, along with proportionate accrued interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn, by filing necessary application before the Tribunal. The respondents 1 to 4/claimants are directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee is produced by the claimants. In other respects, the Award of the Tribunal is hereby confirmed.



C.M.A.No.970 of 2022

WEB COPY

There shall be no order as to costs in the present appeal. Consequently, the connected civil miscellaneous petitions are closed.

01.09.2022

Index : Yes/No

Speaking order/non-speaking order
sp

To

1.The Motor Accident Claims Tribunal, Special District Court, Krishnagiri.

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



WEB COPY



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P.T.ASHA, J.,

sp

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