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C.M.A.No.2391 of 2014  
and C.M.A.No.2517 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.No.2391 of 2014  
and C.M.A.No.2517 of 2021  
and CMP.No.14451 of 2021

**C.M.A.No.2391 of 2014:**

- 1.M.Siriya Pushpam
  - 2.M.Arjun Pandi (Minor)
  - 3.M.Midun Pandi (Minor)
  - 4.M.Janardhanan Pandi (Minor)  
(Minors rep. by their mother and natural  
guardian M.Siriya Pushpam)
  - 5.K.Pakiyam  
V.Kailasam (since deceased)
- .. Appellants

-Vs.-

1. V.Anita
  - 2.ICICI Lombard General Insurance Co. Ltd.,  
Arihant Plaza, I Floor  
No.84 & 85, Walltax Road, Chennai - 600 003.  
[No operating from Chottabai Centre,  
No.140, Nungambakkam High Road  
Chennai - 600 034.]  
(R1 exparte before Lower Court)
- .. Respondents



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**C.M.A.No.2517 of 2021 :**

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ICICI Lombard General Insurance Co. Ltd.,  
Arihant Plaza, I Floor  
No.84 & 85, Walltax Road  
Chennai - 600 003.

.. Appellant

- Vs -

1.M.Siriya Pushpam  
2.M.Arjun Pandi (Minor)  
3.M.Midun Pandi (Minor)  
4.M.Janardhanan Pandi (Minor)  
5.K.Bhagyam  
6.V.Kailasam (Died)  
(Minors 2 to 4 rep. by their mother and natural  
guardian first respondent M.Siriya Pushpam)  
7.V.Anita

.. Respondents

**Prayer in C.M.A.No.2391 of 2014:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 20.03.2013 in M.C.O.P. No.1614 of 2010 on the file of the Motor Accidents Claims Tribunal, VI Judge, Court of Small Causes, Chennai.

**Prayer in C.M.A.No.2517 of 2021:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 20.03.2013 in M.C.O.P. No.1614 of 2010 on the file of the Motor Accidents Claims Tribunal, (VI Judge, Court of Small Causes), at Chennai.



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**C.M.A.No.2391 of 2014:**

For Appellants ... Mr.S.Gangaram Prasad

For Respondents ... Ms.R.Sree Vidya for R2  
R1 – *Ex-parte* vide E.B.

**C.M.A.No.2517 of 2021 :**

For Appellant ... Ms.R.Sree Vidhya  
For Respondents ... Mr.S.Gangaram Prasad [R1&R5]  
R2 to R4 - Minors rep. by R1  
R7 - Not ready in notice  
R6 - Died

**COMMON JUDGMENT**

The above appeals arise in respect of the Award passed by the Motor Accident Claims Tribunal (VI Court of Small Causes, Chennai) in M.C.O.P.No.1614 of 2010. The claimants have filed C.M.A.No.2391 of 2014 seeking enhancement of the Award and the Insurance Company has in turn filed C.M.A.No.2517 of 2021 challenging the quantum.

2. The facts in brief are narrated herein below with the parties being referred to in the same ranking as before the Tribunal.



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The petitioners are the legal representatives of one Muniyandi, who died in a road accident on 21.01.2010. It is the case of the petitioners that the said Muniyandi, who is the husband of the 1<sup>st</sup> petitioner, father of petitioners 2 to 4 and son of petitioners 5 and 6 had, on the said date, travelled in his motor-cycle bearing Registration No.TN-05-AB-9763 proceeding from Chennai to Kancheepuram on the G.W.T.Road. At that point of time, the driver of the Maruti Car belonging to the first respondent and insured with the second respondent-Insurance Company had driven the same in a rash and negligent manner, as a result, he had hit the motor-cycle from the rear side. By reason of the impact, the said Muniyandi was thrown out of the vehicle and sustained grievous injuries to which he later succumbed to his injuries. The deceased Muniyandi is stated to be the proprietor of M/s.M.P.Chemicals earning a monthly income of not less than a sum of Rs.30,000/- per month. He is also stated to be an income tax assessee.



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3. The first respondent had remained *ex-parte* and it was the second respondent-Insurance Company that had filed its counter. The Insurance Company had taken out a defense that the deceased had also contributed to the negligence, as he had not followed the road Rules while riding his motor-cycle. They have also challenged the quantum of compensation granted, the nature of the injuries as also the employment details of the deceased.

4. The Tribunal on considering the evidence on record held that the accident had occurred only on account of the rash and negligent driving of the driver of the first respondent's Maruti car. Ultimately, a compensation of a sum of Rs.31,84,175/- was awarded. The Tribunal has adopted an annual income of the deceased at Rs.2,01,200/- on perusing the income tax returns filed as Ex.P8 series for the assessment years 2007-2008, 2008-2009 and 2010-2011. The deceased was 40 years at the time of the accident and therefore, a multiplier of 15 was adopted and future prospects of 30% was added. Therefore, the pecuniary loss was calculated at a sum of Rs.30,74,175/-, to which compensation under the other heads was also



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awarded. Challenging the Award, the petitioners and the second respondent-Insurance Company are before this Court by filing the respective appeals.

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

6. The Tribunal has arrived at an annual income on the basis of the returns that have been filed by the petitioners, which have been marked as Ex.P8 series. These returns were not objected to by the Insurance Company and therefore, the Tribunal has rightly adopted the same. The multiplier which has been adopted and the future prospects are all in order. The claimants having themselves filed the documents to show income cannot now seek to have something more than what was received by the deceased. Therefore, the Award does not require any enhancement. Likewise, since the Award has been passed on the basis of documentary evidence and as per the judgments of the Hon'ble Supreme Court as well as this Court with reference to the amounts due under the conventional heads. I see no reason



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to interfere with the judgment and decree of the Tribunal below.

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Accordingly, these civil miscellaneous appeals are dismissed. No costs.

Consequently, connected miscellaneous petition is closed. The Award amount shall be apportioned equally amongst all the petitioners. The petitioners 2 to 4 would request that their shares shall be granted to the first petitioner/mother of the petitioners 2 to 4. The first petitioner is entitled to get a 4/5<sup>th</sup> share and the 5<sup>th</sup> petitioner is entitled to 1/5<sup>th</sup> share in the Award amount.

18.11.2022

srn

To

1. The V Judge, Court of Small Causes at Chennai.
2. The Section Officer, V.R. Section, High Court, Madras.



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**P.T.ASHA, J.,**

srn

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