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C.M.A.No.1244 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM:

**THE HON'BLE MRS. JUSTICE J. NISHA BANU
AND
THE HON'BLE MR. JUSTICE D. BHARATHA CHAKRAVARTHY**

C.M.A.No.1244 of 2023

Reliance General Insurance Company Ltd.,
Having Office at
Old No.15, new No.29, 3rd Floor,
North Usman Road, T. Nagar,
Chennai 600 017

... Appellant/ Petitioner

Vs.

1. Arumugam

2. Muniyammal

...Respondents/ Petitioners

3. Gokilakrishnan

...Respondent/ Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Judgment and Decree dated 13.12.2022 passed in M.C.O.P.No.146 of 2016 on the file of MACT Subordinate Judge, Arni, Tiruvannamalai District.

For Appellant : P.Suresh Srinivasan

J U D G M E N T



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This Civil Miscellaneous Appeal is directed against the order dated 13.12.2022 passed by the learned Subordinate Judge, Motor Accident Claims Tribunal, Arni, Tiruvannamalai District in M.C.O.P.No.146 of 2017.

2. The deceased, by name Palanisamy, was a tanker lorry driver aged about 26 years, who met with the accident on 25.06.2017. Feeling aggrieved by the quantum of Award i.e. awarding a sum of Rs.27,90,200/-, the present appeal has been filed.

3. Mr.P.Suresh Srinivasan, learned counsel for the appellant would submit that once the Tribunal had concluded that there is no proof of direct employment, notional income could not have been taken at Rs.19,000/- and it should have been taken only as Rs.15,000/-.

4. We have considered the submissions made by the learned counsel for the appellant. The deceased was aged 26 years and he is said to have been a tanker lorry driver. Considering all the facts in total, the Tribunal has taken Rs.19,000/- as the self-employed income. We donot find the same as



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excessive or unreasonable. As a matter of fact, the Hon'ble Supreme Court of India recently in *Manusha Sreekumar and Others Vs. United India Insurance Company Limited* reported in (2022) SCC online SC 1441 held that whenever the claimants are unable to produce salary certificate, the Court can fix the notional income by considering in minimum wages notification along with some amount of guesswork that is not completely detached from reality and accordingly determine the income of the deceased. In respect of the driver, after taking into account the wages fixed in Kerala in respect of an accident which took place in the year 2015 ultimately fixed the notional income at Rs.15,600/- per month. This Court also in respect of the accidents taking place in the year 2014-15 has fixed Rs.15,000/- as notional income. In the instant case, the deceased is said to have been a tanker lorry driver. Therefore, considering the fact that he is a tanker lorry driver and the accident had taken place in the year 2017, the amount of Rs.19,000/- taken as notional income by the Tribunal is just and reasonable and is in tune with the realistic circumstances. We also further find that in respect of the filial consortium of the parent, only one sum of Rs.44,000/- is granted while as per the judgment in *Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others* reported in (2018) 18 SCC 130,



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both the parents are entitled for Rs.44,000/- each.

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5. In that view of matter, in any event, we do not find the Award of the Trial Court as excessive or unreasonable. Therefore, finding no merit, this Civil Miscellaneous Appeal is dismissed. No costs.

(J.N.B., J.) (D.B.C., J.)
20.06.2023

Index : Yes
Internet : Yes
Neutral Citation : Yes
Speaking Order
sts

To:
The Court of the Subordinate Judge,
Motor Accident Claims Tribunal,
Arni,
Tiruvannamalai District

J. NISHA BANU, J.,
and
D.BHARATHA CHAKRAVARTHY, J.,



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Judgment made in
C.M.A.No.1244 of 2023

Dated:
20.06.2023