



CMA No.195 of 2023

**CMA No.195 of 2023**

**D.KRISHNAKUMAR, J.**

**AND**

**K.GOVINDARAJAN THILAKAVADI, J.**

This matter is posted today under the caption " for being mentioned ".

2. The learned counsel for the appellant has brought to the notice of this Court that, in the order dated 09.03.2023, passed in CMA No.195/2023, at paragraph No.9, **instead of Rs.39,41,810**, it has been erroneously mentioned as Rs.31,20,092/-. Further, at paragraph No.10, instead of " **second respondent/second claimant**", it has been wrongly mentioned as respondents 1 & 2/Claimants. Hence to that effect, necessary correction may be carried out.

3. Accepting the above submission of the learned counsel for the appellant, the paragraph No.9 and 10 shall read as follows.



CMA No.195 of 2023

9. In view of the above modification, the compensation awarded by the Tribunal at Rs.42,19,460/- is reduced to Rs.39,41,810/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

10. The appellant/Insurance Company is directed to deposit the entire compensation amount along with interest as modified by this Court, less the amount already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the second respondent/ second claimant is permitted to withdraw the compensation as modified by this Court along with interest and costs, after adjusting the amount, if any, already withdrawn, by filing necessary application before the Tribunal."

4. In other respects, the earlier order dated 09.03.2023 passed in CMA No.195/ 2023 shall stand unaltered.

(D.K.K., J.) (K.G.T.,J.)

28.03.2023

mst

***Note: Registry is directed to issue a fresh order copy, after making necessary corrections.***



WEB COPY



CMA No.195 of 2023

**D.KRISHNAKUMAR, J.**

**K.GOVINDARAJAN THILAKAVADI, J.**

**mst**

CMA No.195 of 2023

28.03.2023



WEB COPY



CMA No.195 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2021

Coram

**THE HON'BLE MR JUSTICE D. KRISHNAKUMAR  
AND  
THE HON'BLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI**

**CMA.No.195 of 2023**

Reliance General Ins Co.Ltd  
No.6, Haddows Road, 3<sup>rd</sup> Floor,  
Nungambakkam, Chennai-600034.

..Appellant

Vs

1.Jeganathan

2.Anuratha Jeganathan

3.S.Madhan Kumar

..Respondents

**Prayer :** This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act to set aside the Decree and Judgment dated 18.04.2022 passed in MCOP.No. 1570 of 2016 by the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : M/s.C.Bhuvanasundari

For respondents : Mr.K.Varadhakamaraj – R1 & R2

\*\*\*\*\*

**JUDGMENT**

[Judgement of the Court was made by *D.KRISHNAKUMAR,J.*]



CMA No.195 of 2023

Civil Miscellaneous Appeal is preferred by the appellant/Insurance Company against the award passed by the tribunal in MCOP.No.1570 of 2016.

2. According to the claimant, on 20.01.2016 at about 10.30 hrs when the deceased was riding motor cycle bearing registration No.TN09-CB-3098 along Mount Poonamallee Road towards Porur and when nearing opposite to War Cements and by that time the offending vehicle viz., tempo traveller van bearing Registration No.TN19-L-4192 came in a rash and negligent manner and hit against the motor cycle in which the deceased sustained head injuries. The deceased was taken to the hospital, where he was declared dead. The tribunal after considering the oral and documentary evidences filed by the appellant and the respondents in the claim petition, has awarded total compensation of sum of Rs.42,19,500/- by fixing monthly income at Rs.40,318/- as against the claim made by the claimants at Rs.60,00,000/-.

3. Aggrieved by the said award, the appellant/Insurance Company is before this Court, stating that the deceased was resident of Hosur and was staying alone in Chennai for employment purpose in a rented



CMA No.195 of 2023

building. He incurred a sum of Rs 1600/- for transport and Rs.440/- for food allowance which reflected in salary certificate should be deducted from his total monthly income and the same was not considered by the tribunal while awarding compensation. Hence the tribunal ought to have taken monthly income salary of the deceased only to the extent of Rs.26,759/- (28,799 -2040).

4. The learned counsel for the appellant also stressed on this point and the same was not seriously objected on the side of the claimants.

5. The learned counsel for the claimants/respondents would also concede all these aspects.

6. Hence in our opinion, the monthly income of the deceased can be fixed at Rs.26,759/- which would be appropriate according to the salary certificate produced. Hence the same is taken as monthly income of the deceased. As per **Pranay Sethi's Case**, after adding 40% of the income of the deceased towards future prospects, the total income of the deceased would come to Rs.37,462/- (26,759 + 10,703). Hence the annual income of the petitioner is arrived at Rs. 4,49,544/- (37462 x



CMA No.195 of 2023

12). For the first Rs.2,50,000/-, there could be no tax and for the balance Rs.1,99,544/-, the tax payable is at 10% and tax payable come to Rs.19,954/-. After deducting the total income tax of Rs.19,954/-, the actual annual income of the deceased comes to Rs. 4,29,590/-.

7. As per the **Sarala Verma Case**, since the deceased is bachelor, 50% of his income has to be deducted towards his personal expenses. As such, the annual income of the deceased, after deducting 50% of income comes to Rs.2,14,795/-. Since the deceased has completed 22 years as on date of the accident, the multiplier for the age group of the deceased is 18, therefore the compensation amount would be Rs. 38,66,310/-.

8. There is no dispute as against the compensation awarded under other heads viz., 1. Loss of Estate, 2.Loss of Love and Affection and 3. Funeral Expenses, hence the compensation awarded under these heads are confirmed and the total compensation awarded by the tribunal is modified as follows;

| <b>Heads</b>       | <b>Compensation<br/>awarded by the<br/>tribunal<br/>Rs.</b> | <b>Compensation<br/>modified by<br/>this Court<br/>Rs.</b> |
|--------------------|-------------------------------------------------------------|------------------------------------------------------------|
| Loss of dependency | 41,43,960                                                   | 38,66,310/-.                                               |



WEB COPY



CMA No.195 of 2023

| <b><i>Heads</i></b>           | <b><i>Compensation<br/>awarded by the<br/>tribunal<br/>Rs.</i></b> | <b><i>Compensation<br/>modified by<br/>this Court<br/>Rs.</i></b> |
|-------------------------------|--------------------------------------------------------------------|-------------------------------------------------------------------|
| Loss of Estate                | 15,000                                                             | 15,000                                                            |
| Loss of Love and<br>Affection | 44,000                                                             | 44,000                                                            |
| Funeral Expenses              | 16,500                                                             | 16,500                                                            |
| <b>Total</b>                  | <b>42,19,460</b>                                                   | <b>39,41,810/-</b>                                                |



CMA No.195 of 2023

9. In view of the above modification, the compensation awarded by the tribunal at Rs. 42,19,460- is reduced to Rs.31,20,092/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

10. The appellant /Insurance Company is directed to deposit the entire compensation amount along with interest as modified by this Court, less the amount already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 & 2/claimants are permitted to withdraw the compensation as modified by this Court along interest and costs, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal.

11. To the above extent, the award passed by the tribunal is modified and consequently the Civil Miscellaneous Appeal is partly allowed. No costs.

**[D.K.K.J.]**

**[K.G.T.J.]**

**09.03.2023**



CMA No.195 of 2023

WEB COPY

Speaking/Non Speaking Judgment

Index: Yes/No

ak

**D. KRISHNAKUMAR, J.  
AND  
K. GOVINDARAJAN THILAKAVADI, J**

To

1. The II Judge,  
Court of Small Causes,  
Motor Accident Claims Tribunal,  
Chennai.
2. The Section Officer,  
V.R.Section,  
High Court, Madras.

**CMA.No.195 of 2023**



WEB COPY



CMA No.195 of 2023

**09.03.2023**