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CMA.Nos.2234 and 1967 of 2024
and C.M.P.No.15215 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CMA.Nos.2234 and 1967 of 2024
and
C.M.P.No.15215 of 2024

C.M.A. No.2234 of 2024

1. Sivannan
2. Vasantha

... Appellants

vs.

- 1.Sankar (driver)
2. Rajedran (Owner)
3. The Manager
Liberty General Insurance Company Limited,
10th Floor, Tower A, Peninsula Business Park,
Ganpa Trao, Kadam Marg, Lower Parel,
Mumbai, Mharashtra 400 013.

... Respondents

C.M.A.No.1967 of 2024

The Manager
Liberty General Insurance Company Limited,
10th Floor, Tower A, Peninsula Business Park,
Ganpa Trao, Kadam Marg, Lower Parel,
Mumbai, Mharashtra 400 013.

... Appellant

Vs.



CMA.Nos.2234 and 1967 of 2024
and C.M.P.No.15215 of 2024

1. Sivannan
2. Vasantha
3. Sankar (driver)
4. Rajedran (Owner)

...Respondents

Cause title accepted vide court order dated 10.07.2024 made in CMP
No.13140/2024 in C.M.A. SR No.9115/2024

COMMON PRAYER : Civil Miscellaneous Appeals filed under Section
173 of the Motor Vehicles Act, 1988 against the Award dated 20.10.2023
passed in M.C.O.P.No.22 of 2021 on the file of the Motor Accidents
Claims Tribunal, Subordinate Court, Gudalur, The Nilgiris.

Appearance in C.M.A. No.2234 of 2024 :

For Appellants : Ms.P.T. Saleem Fathima

R1 & R2 : Dispensed with Notice
For R3 : Mr. E. Rajadurai
for M/s. M.B. Gopalan Associates

Appearance in C.M.A. No.1967 of 2024 :

For Appellant : Mr. E. Rajadurai
for M/s. M.B. Gopalan Associates

For R1 and R2 : Ms.P.T. Saleem Fathima
R3 and R4 : No appearance.



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COMMON JUDGMENT

The appellants in C.M.A. 2234 of 2024 are the claimants in MCOP No.22 of 2021 on the file of the Motor Accident Claims Tribunal / Subordinate Court, Gudalur, Nilgiris. They filed the claim petition under Section 166 of the Motor Vehicles Act, seeking compensation of Rs.20,00,000/- for the death of their mother in a road accident that took place on 15.08.2021

2. The appeal in C.M.A.1967 of 2024 has been filed by the Manager, Liberty General Insurance Company Limited, Mumbai, who is the third respondent in M.C.O.P.No.22 of 2021. Both the appeals are filed questioning the quantum of compensation awarded by the Tribunal.

3. For the sake of convenience the parties are referred to as per their ranking in the Tribunal.

4. The case of the claimants in a nutshell is as follows:

4.1. On 15.08.2021, at about 13.30 hours, Suseela (deceased)



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was travelling in a car bearing Registration Number TN-09-BQ-6186, belonging to the second respondent, on Devala - Gudalur Road. The driver of the car, in which the deceased was travelling, drove the same in a rash and negligent manner, as a result of which the car fell down in a pit, resulting in the instantaneous death of Suseela.

5. According to the claimants the rash and negligent driving of the driver of the car bearing Registration Number TN-09-BQ-6186, belonging to the second respondent was the cause of the accident and that since the said vehicle was insured with the third respondent, Liberty General Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to them.

6. In the Tribunal, the first and second respondents remained absent and were set *ex parte*. The third respondent resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.



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7. The Tribunal after analysing the evidence on record, awarded compensation of Rs.15,32,828/- to the claimants together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, vide its orders dated 20.10.2023.

8. Aggrieved over the quantum of compensation awarded by the Tribunal the present appeals are filed.

9. Heard Ms.P.T. Saleem Fathima, learned counsel appearing for the appellants/claimants and Mr. E. Rajadurai, learned counsel appearing for the Insurance Company.

10. Ms.P.T. Saleem Fathima, learned counsel for the appellants/claimants contended that the Tribunal had fixed the notional monthly income of the deceased only at Rs.15,040/- and also awarded a meagre amount towards loss of love and affection. She therefore, prayed for enhancement of compensation.



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11. *Per contra* Mr. E. Rajadurai, learned counsel appearing for the Liberty General Insurance Limited, Mumbai, contended that, in the absence of any proof of income, the Tribunal had erred in fixing the notional monthly income of the deceased as Rs.15,040/-. His further contention is that the Tribunal had awarded an exorbitant amount of Rs.15,32,828/- towards compensation and the same has to be scaled down.

12. In the claim petition it is contended that the deceased was working as a daily wager earning a sum of Rs.15,000/- per month. The Tribunal had fixed the notional monthly income of the deceased as Rs.15,040/- on the basis of inflation index and by following the judgment of this Court in *The Managing Director, Tamilnadu Transport Corporation (Coimbatore Division II) Ltd, Erode vs. P. Jaganathan & another* reported in *CDJ 2018 MLIC 6400*. Therefore, the same does not warrant any interference by this Court. Since there are two dependents, the claimants are entitled to Rs.88,000/- (44,000/- x 2) towards loss of love and affection. Thus the claimants are entitled for the enhanced compensation amount as detailed hereunder:



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<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court (Rs.)</i>
1.	Loss of dependency	14,55,828/-
2.	Loss of love and affection (44,000 x 2)	88,000/-
3.	Funeral expenses	16,500/-
4.	Loss of Estate	16,500/-
Total		15,76,828/-

13. In the result,

- i. The appeal in C.M.A. 2234 of 2024 is partly allowed. No costs.
- ii. The appeal in C.M.A. No.1967 of 2024 is dismissed. No costs.

Consequently connected miscellaneous petition is closed.

- iii. The compensation awarded by the tribunal is enhanced to Rs.15,76,828/- from Rs.15,32,828/-.

- iv. The Liberty General Insurance Company Limited, Mumbai, is directed to deposit the enhanced compensation of Rs.15,76,828/- along with interest at the rate of 7.5% per annum, from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order to the credit of M.C.O.P.No.22 of 2021 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Gudalur.



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- v. On such deposit being made, the claimants are entitled to withdraw the same, as per the apportionment made by the tribunal, after following due process of law.

20.08.2024

Index : Yes/No
Speaking/Non-speaking order
bga

To

1. Motor Accident Claims Tribunal, Subordinate Court, Gudalur.
2. The Manager
Liberty General Insurance Company Limited,
10th Floor, Tower A, Peninsula Business Park,
Ganpa Trao, Kadam Marg, Lower Parel,
Mumbai, Mharashtra 400 013.
3. The Section Officer, V.R. Section, Madras High Court, Chennai.



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R.HEMALATHA, J.
bga

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