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C.M.A.No.2406 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS. JUSTICE R.KALAIMATHI**

**C.M.A.No.2406 of 2024
and
C.M.P.No.19543 of 2023**

Reliance General Insurance Co.Ltd.,
Reliance Center,
watchand Hitachand Marg,
Battard Estate,
Mumbai - 600 038

..Appellant

Vs.

1. Geetha
W/o Late Selvam
2. Minor Nithish,
S/o Late Selvam
3. Minor Abinaya
D/o Late Selvam,
Minors 2 & 3 rep. by
R1 Mother & Natural Guardian
4. Vanaroja,
W/o Jayavelu
5. Jayavelu,



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S/o Chinnappa Gounder

6. A.Arokiya Dass,
S/o Arulandu

..Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor vehicles Act, 1988 against the award dated 30.11.2023 passed in M.C.O.P.No.86 of 2023 (Vaniyambadi M.C.O.P.No.205 of 2019) on the file of Motor Accidents Claims Tribunal, (Subordinate Judges Court), Ambur.

For Appellant : Mr.C.Vasudevan

For Respondent : Mr.E.Terry Chella Raja

J U D G M E N T

(The order of the Court was made by Mrs.J.Nisha Banu,J.)

This Civil Miscellaneous Appeal has been preferred by the Insurance Company, challenging the award dated 30.11.2023 passed in MCOP.No.86 of 2023 (Vaniyambadi MCOP.No.205 of 2019) on the file of Motor Accidents Claims Tribunal (Subordinate Judges Court), Ambur.

2. The appellant/ Insurance Company is the 2nd respondent in



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M.C.O.P.No.86 of 2023. The 6th respondent is the owner of the vehicle.

The respondents 1 to 5/claimants had filed the said claim petition claiming a sum of Rs.30,00,000/- as compensation for the death of Mr.Selvam, who died in the accident that took place on 19.10.2019.

3. The 1st respondent is the wife of the deceased. The 2nd & 3rd respondents are the children and the 4th and 5th respondents are the parents of the deceased. The 6th respondent is the owner of the vehicle. According to the claimants, the accident occurred on 19.10.2019 at about 11.00 p.m. near Chinnacherry at Govindampadi Village at Chennai to Bangalore National Highways. When Selvam was walking on the extreme left side of the road, the vehicle TATA 407 belonging to the 6th respondent bearing Reg.No.KA-03-2637 came in a very rash and negligent manner towards Ambur, dashed behind Selvam, due to which, he sustained injuries on his head and spinal cord and died on 29.10.2019 in Vellore Government Medical College Hospital. The claimants claimed a sum of Rs.30,00,000/- as compensation and the Tribunal, awarded a sum of Rs.28,07,166/-. Challenging the award of the Tribunal, the present Appeal has been filed.



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4. Heard the learned counsel the appellant Insurance Company, learned counsel for the respondents/claimants and perused the materials available on record.

5. Though the learned counsel for the appellant Insurance Company has challenged the liability and quantum in the award passed by the Tribunal, now he confines his argument only in respect to the amount of Rs.75,000/- awarded under the head of 'love and affection'. Learned counsel would state that already an excess amount of Rs.2,00,000/- was awarded towards 'contribution to the family' and therefore, a sum of Rs.75,000/- awarded towards 'love and affection' may be deleted.

6. Learned counsel appearing for the claimants has also accepted for deleting the amount of Rs.75,000/- awarded under the head 'love and affection'.

7. The Tribunal, under the impugned award, directed the



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Insurance Company to pay the claimants, a compensation of Rs.28,07,166/-(Rupees Twenty Eight Lakhs, Seven Thousand One Hundred and Sixty Six only) as detailed hereunder :

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>
Loss of earning	24,82,830
Loss of love and affection	75,000
Medical bill expenses	14,836
Transport charges	4,500
Funeral expenses	15,000
Loss of Estate	15,000
Contribution to the family	2,00,000
Total	28,07,166

8. Since the learned counsel for the claimants accepted for deleting the amount of Rs.75,000/- awarded under the head of 'love and affection', we are of the view that the amount awarded by the Tribunal in all other heads need not be interfered with and hence, the same is hereby confirmed.

9. In the light of the above, the compensation awarded by the Tribunal is hereby modified as under:



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	24,82,830	24,82,830	Confirmed
2.	Loss of love and affection	75,000	Nil	Reduced (deleted)
3.	Medical bill expenses	14,836	14,836	Confirmed
4.	Transport charges	4,500	4,500	Confirmed
5.	Transport charges	15,000	15,000	Confirmed
6.	Loss of Estate Funeral expenses	15,000	15,000	Confirmed
7.	Contribution to the family	2,00,000	2,00,000	Confirmed
	Total	28,07,166	27,32,166	Reduced

10. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.28,07,166/- is hereby reduced to Rs.27,32,166/- (Rupees Twenty Seven Lakhs Thirty Two Thousand One Hundred and Sixty Six only) together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant-Insurance Company is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.86 of 2023 on the file of the Motor Accidents Claims



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Tribunal, (Sub-Court), Ambur. On such deposit, the claimants are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. The 1st claimant, wife of the deceased is entitled to Rs.13,32,166/- instead of Rs.14,07,166/-. Insofar as the other claimants are concerned, the apportionment made by the Tribunal is confirmed.

11. Insofar as the share of the minor claimants is concerned, the same shall be deposited in a Fixed deposit in any one of the Nationalized Banks, till they attain the age of majority and the interest accrued thereon shall be withdrawn by the guardian of the minor claimants once in three months, directly from the Bank. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(J.N.B,J.) (R.K.M., J.)

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The Motor Accidents Claims Tribunal,
(Sub-Court), Ambur

J. NISHA BANU, J.
and



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R.KALAIMATHI,J.

vsi

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