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C.M.A.No.3075 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 13.11.2024

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU**  
and  
**THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

C.M.A.No.3075 of 2024  
and C.M.P.No.25384 of 2024

Reliance General Insurance Company Limited,  
Reliance House, 4th Floor,  
No.6, Haddows Road, Nungambakkam,  
Chennai - 600 006.

... Appellant

Vs.

1. S. Jayanthi
2. Minor S. Mithra
3. Minor S.Diwakar
4. M. Sakkarai
5. S. Paripooranam @ Pathipooranam
6. B. Sivashanmugam

... Respondents



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**Prayer:** This Civil Miscellaneous Appeal is filed under 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 31.10.2023 passed in M.C.O.P.No.798 of 2014 on the file of the Motor Accident Claims Tribunal (IV Additional District and Sessions Judge) Tiruvallur at Ponneri.

For Appellant : Mr.P.Suresh Srinivasan  
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### **JUDGMENT**

*(Judgment of the Court was delivered by J. Nisha Banu, J)*

This Civil Miscellaneous Appeal has been filed by the Insurance Company, challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal.

2. According to the claimants, on 09.08.2013 at about 19.00 hours when the deceased was proceeding in a motor cycle bearing Reg.No.TN-20-AV-5672 from Sunnambukulam to Gummidipoondi carefully, on the extreme left side of GNT Road at Prithivi Nagar, Gummidipoondi, suddenly and unexpectedly, a motor cycle bearing Reg.No.TN-51-T-9519, which was driven by its driver in a rash and negligent manner with



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high speed from opposite side turned his right side without any indication and dashed the deceased's motor cycle. As a result, the deceased was thrown away and sustained multiple fatal injuries, treated as an in-patient in Apollo Hospitals, Tondiarpet, Chennai - 81, from 10.08.2013 to 17.08.2013 and died in the same hospital on 17.08.2013 at 01.45 p.m. though effective treatment was given to the him. It is alleged that the accident took place only due to the rash and negligent driving by the driver of the motor cycle bearing Reg.No.TN-51-T-9519. Therefore, the legal representatives of the deceased have filed the claim petition in M.C.O.P.No.798 of 2014 on the file of the Motor Accidents Claims Tribunal (IV Additional District and Sessions Judge), Tiruvallur at Ponneri, claiming a compensation of Rs.27,00,000/-. As against the said claim, the Tribunal has awarded a sum of Rs.22,92,000/- as total compensation. Aggrieved over the same, the Insurance Company has filed the present Appeal.



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3. The learned counsel for the appellant/Insurance Company submits that the Tribunal erred in holding that the alleged accident was caused due to the rash and negligent driving of the driver of the first respondent and also erred in assessing the monthly income of the deceased as Rs.10,000/- without any basis and went wrong in adding 40% of the same towards future prospects and it is on the higher side. He further submits that the Tribunal ought not to have awarded a sum of Rs.20,16,000/- on the head of loss of dependency and the same is also on the higher side. He further submits that the compensation for a sum of Rs.22,92,000/- under various heads is unsustainable and liability to interfere with in the interests of justice.

4. The appeal itself is taken up for final disposal at the admission stage itself, since the disposal of this case will not affect the respondents in any manner.



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5. Before the Tribunal, the wife of the deceased has been examined as P.W.1 and one M.Shankar/eyewitness to the accident, has been examined as P.W.2. Both of them have deposed that the accident took place only due to the rash and negligent driving of the driver of the Motor Cycle bearing Registration No: TN-51-T-9519. Ex.P1/F.I.R also supports the case of the claimants rather than respondents. From the evidence, it is clear that a motor cycle bearing Reg.No.TN-51-T-9519, which was driven by its driver in a rash and negligent manner with high speed from opposite side turned his right without any indication and dashed the deceased's motor cycle. As a result, the deceased was thrown away and sustained multiple fatal injuries. Thus, the Tribunal fixed the negligence on the part of the driver of the Motor Cycle bearing Reg.No.TN-51-T-9519, which in our opinion, is proper.

6. Insofar as the contention of the learned counsel for the appellant that the Tribunal ought not to have fixed the monthly income of the deceased as Rs.10,000/- is concerned, the deceased is a Mason and



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self employed and was earning a sum of Rs.15,000/- per month. The Tribunal, considering the prevailed working atmosphere of the deceased, fixed a sum of Rs.10,000/- as notional monthly income of the deceased, which in our opinion is fair and proper. As per the decision rendered in ***National Insurance Co. vs Pranay Sethi and others reported in 2017 (2) TNMAC 601***, 40% was added towards future prospects, since the age of the deceased was 33 at the time of accident. Thus, by awarding 40% of his income towards future prospects, a sum of Rs.4,000/- ( $\text{Rs.10,000} \times 40/100 = \text{Rs.4,000/-}$ ) was added to his monthly contribution and his monthly contribution comes to Rs.14,000/- ( $\text{Rs.10,000/-} + \text{Rs.4,000/-}$ ). After  $1/4^{\text{th}}$  deduction towards personal expenses ( $\text{Rs.14,000} - \text{Rs.3,500/-} = \text{Rs.10,500/-}$ ), a sum of Rs.1,26,000/- ( $\text{Rs.10,500/-} \times 12$ ) was considered to be the contribution to the dependent family per annum. By applying multiplier 16 as per the decision rendered in ***Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009)***, since the age of the deceased was 33 at the time of death, a total sum of Rs.20,16,000/- ( $\text{Rs.1,26,000/-} \times 16$ ) was arrived towards loss of dependency and this Court is not inclined to interfere with the same. That apart, a sum of Rs.18,000/- was awarded towards Loss of Estate, a sum



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of Rs.2,40,000/- (Rs.48,000/- each to the dependents) towards Loss of consortium to the wife and Loss of Love and Affection to the children and parents of the deceased and a sum of Rs.18,000/- was awarded towards Funeral Expenses, which are just and reasonable.

7. We do not find any infirmity or illegality in the said findings of the Tribunal, warranting interference by this Court. Therefore, we are of the opinion that the award passed by the Tribunal has to be confirmed.

8. In the result, this Civil Miscellaneous Appeal is dismissed. The Appellant/ Insurance Company shall deposit the entire compensation amount, along with interest and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four (4) weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw their share of the award amount on the basis of apportionment made by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn. The shares of the minors/respondents 2 and 3 are ordered to be deposited in any one of the Nationalised Bank till they



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attain majority. The mother of the minors/1<sup>st</sup> respondent is permitted to withdraw the accrued interest once in three months for the welfare of the minors. No costs. Consequently, connected Miscellaneous Petition is closed.

(J.N.B, J.) (R.S.V., J.)  
13.11.2024

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To

The Motor Accident Claims Tribunal  
(IV Additional District and Sessions Judge)  
Tiruvallur at Ponneri.



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