



C.M.A.No.2921 of 2023 and Cros. Obj.No.1 of 2024

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.09.2024

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.No. 2921 of 2023

and

C.M.P.No.27434 of 2023

and

Cros.Objection No.1 of 2024

C.M.A.No. 2921 of 2023 :

Reliance General Insurance Company Ltd.,

Reliance House, R.O.Legal Dept.,

4th Floor, No.6, Haddows Road,

Nungambakkam, Chennai-600 006.

... Appellant /2nd respondent

Vs.

1.I.Kalaivani

2.I.Kanishka(Minor)

3.I.Srikesav(Minor)

(2nd and 3rd respondent Minor Rep.by their

Mother Natural Guardian I.Kalaivani, 1st respondent)

4.S.Valliyammal

5.V.Shanmugam

... Respondents / Petitioners

6.K.Elumalai

... Respondent/1st Respondent

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.01.2023 passed in M.C.O.P.No.3794 of 2018 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.



C.M.A.No.2921 of 2023 and Cros. Obj.No.1 of 2024

WEB COPY For Appellant : Mr.P.Suresh Srinivasan
For Respondents 1 to 5 : Mr.K.Balaji
For 6th Respondent : No Appearance

Cros. Obj.No.1 of 2024 :

- 1.Kalaivani
- 2.I.Kanishka(Minor)
- 3.I.Srikesav(Minor)
- (2nd and 3rd petitioners are minors rep.
by their mother & Natural Guardian
I.Kalaivani, 1st respondent)
- 4.S.Valliyammal
- 5.V.Shanmugam ... Cross Objectors

Vs.

- 1.K.Elumalai ... 1st Respondent / Appellant
2. Reliance General Insurance Company Ltd.,
Reliance House, R.O.Legal Dept.,
4th Floor, No.6, Haddows Road,
Nungambakkam, Chennai-600 006. ... Respondents

Prayer : Cross Objection filed under Order XXXI Rule 22 of C.P.C.,
against the against the Judgment and Decree dated 30.01.2023 passed in
M.C.O.P.No.3794 of 2018 on the file of the Motor Accident Claims Tribunal,
III Court of Small Causes, Chennai.

For Cross-Objectors : Mr.K.Balaji

For 2nd Respondent : Mr.P.Suresh Srinivasan

COMMON JUDGMENT

(The Judgment of the Court was delivered by Mrs.R.Kalaimathi, J.,)

The Civil Miscellaneous Appeal is preferred by the Insurance
Company against the award dated 30.01.2023 passed in M.C.O.P.No.3794



C.M.A.No.2921 of 2023 and Cros. Obj.No.1 of 2024

of 2018 on the file of the Motor Accident Claims Tribunal / III Court of Small Causes, Chennai, for a change.

2. Thereafter, Cross Objection has been filed by the claimants in the above said M.C.O.P., for enhancement of compensation.

3. Claim petition was filed under Section 166 of Motor Vehicles Act r/w. Rule 3 of MACT Rules, claiming compensation of Rs.40,00,000/- by the legal heirs of the deceased Iyyappan, who died on account of the injuries sustained in a road traffic accident that took place on 30.12.2017.

4. Upon consideration the Tribunal has fixed the monthly income of the deceased at Rs.13,000/- by adding 40% future prospects with a multiplier 15 arrived at the loss of income at Rs.24,57,000/-. For loss of consortium an amount of Rs.40,000/- per dependent and for loss of estate and for funeral expenses, a sum of Rs.15,000/- under each head was granted totalling Rs.26,87,000/-.

5. The facts led to the filing of claim petition is stated in brief:

On 30.12.2017, at 11.30 hours while the deceased S.Iyyappan was



C.M.A.No.2921 of 2023 and Cros. Obj.No.1 of 2024

WEB COPY

riding his motor cycle, bearing Registration No.TN-19-T-8088 along the Ramapuram Bazar Street, at Bharathidasan Nagar, Ramapuram, another rider of the two wheeler bearing Registration No.TN-25-AS-1872, came in the opposite direction drove the vehicle in a rash and negligent manner and hit on the deceased Iyyappan. Due to the said impact, the deceased sustained serious injuries and he was taken to the Government Medical College Hospital, Chengalpet, where he died on the same day at about 15.00 hours. The 1st respondent is the owner of the erred two wheeler and the 2nd respondent being the insurer of the 1st respondent vehicle, both are jointly and severally liable to pay the compensation to the claimants.

6. Contending contra, it was contended by the Insurance Company that the 2nd respondent(Insurance Company) is not liable to pay any compensation, the claimants are put to strict proof of nature of employment, age, and other claims under various heads made in the claim petition.

7. Heard Mr.P.Suresh Srinivasan, learned counsel appearing for the appellant / Insurance Company and Mr.K.Balaji, learned counsel appearing for the claimants and perused relevant records.



C.M.A.No.2921 of 2023 and Cros. Obj.No.1 of 2024

WEB COPY

8. It was stated that the deceased was running a photo studio at Melmaruvathur in the name and style of Sakthi Digital Studio and earning a sum of Rs.20,000/- per month. In the absence of any proof to substantiate the same, the Tribunal fixed the monthly income of the deceased at Rs.13,100/-. Aggrieved by this, the Insurance Company is on an appeal and on the other hand, the claimants have preferred cross-objection for enhancement of monthly income.

9. At trial, on the petitioners' side, two witnesses were examined and 14 documents were marked. On the side of the 2nd respondent, neither any oral evidence was let in nor any document was marked.

10. It has come on record through the evidence of PW1 who is none other than the wife of the deceased that the deceased was running a photo studio and he was earning a sum of Rs.20,000/- p.m. Though no document was produced to substantiate the same, interest of justice would be met if an amount of Rs.16,000/- p.m., is fixed as monthly income. There is no issue with regard to the application of multiplier and future prospects and the age of the petitioner. Based on the above said details, loss of



C.M.A.No.2921 of 2023 and Cros. Obj.No.1 of 2024

income is computed as follows:

Monthly income of the deceased : Rs.16,000/- p.m.

Age of the deceased : 39 years

Future Prospects to be added : 40%

Multiplier to be adopted : 15

Loss of Dependency

= Rs.16,800/- x 12 x 15

= Rs.30,24,000/-.

11. Based on the aforesaid discussions, the compensation as computed above along with other heads are after rework is tabulated below:

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of Dependency	Rs.24,57,000/-	Rs.30,24,000/-	Enhanced
2	For Loss of Consortium	Rs. 2,00,000/-	Rs. 2,00,000/-	Confirmed
3	For Loss of Estate	Rs. 15,000/-	Rs. 15,000/-	Confirmed
4	For Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-	Confirmed



C.M.A.No.2921 of 2023 and Cros. Obj.No.1 of 2024

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
	Total	Rs.26,87,600/-	Rs.32,54,000/-	

12. Thus, the compensation awarded by the Tribunal is enhanced from Rs.26,87,600/- to **Rs.32,54,000/-** which would carry interest at the rate of 7.5% per annum.

13. In the result,

(i) The Civil Miscellaneous Appeal stands Dismissed.

(ii) Cross Objection No.1 of 2024 preferred by the claimants stand Allowed.

(iii) The compensation awarded by the Tribunal is enhanced from Rs.26,87,600/- to **Rs.32,54,000/-**.

(iv) The Appellant / Insurance Company is directed to deposit the enhanced compensation amount i.e., **Rs.32,54,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation to the credit of M.C.O.P.No.3794 of 2018 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai, within a period of eight



C.M.A.No.2921 of 2023 and Cros. Obj.No.1 of 2024

WEB COPY

weeks from the date of receipt of a copy of this Judgment.

(v) On such deposit being made, the 1st Claimant/Wife of the deceased is permitted to withdraw Rs.14,54,000/-. The 2nd Claimant/Daughter of the deceased is permitted to withdraw Rs.7,50,000/- and 3rd Claimant/Son of the deceased is permitted to withdraw Rs.7,50,000/-. The 4th and 5th Claimants are permitted to withdraw **Rs.1,50,000/- each** with interest and costs (less the amount if any already withdrawn), by making necessary cheque application before the Tribunal. The compensation amount awarded to the minor petitioners/claimants 2 and 3 have to be deposited in a Nationalised Bank till they attain majority. The mother/wife of the deceased is permitted to receive the interest once in six months for the welfare of the minor children. After attaining majority, the petitioners/claimants 2 and 3 are permitted to receive their entire share amount.

(vi) The claimants are directed to pay the Court fee for the enhanced compensation amount, if required.

(vii) The Tribunal below shall disburse the enhanced amount upon production of the certified copy showing proof of payment of Court fee by the claimants. No costs. Consequently, connected civil miscellaneous petition is closed.



C.M.A.No.2921 of 2023 and Cros. Obj.No.1 of 2024

WEB COPY

(J.N.B. J.) (R.K.M.J.)
06.09.2024

Index: Yes/No
Speaking Order/Non Speaking order
NCC:Yes / No
ssn

To

1. The Motor Accidents Claims Tribunal,
III Court of Small Causes, Chennai.
2. The Section Officer,
V.R Section,
High Court, Madras.



WEB COPY



C.M.A.No.2921 of 2023 and Cros. Obj.No.1 of 2024

J.NISHA BANU, J.,
and
R.KALAIMATHI.J.,

ssn

C.M.A.No. 2921 of 2023
and
C.M.P.No.27434 of 2023
and
Cros.Objection No.1 of 2024

06.09.2024