



C.M.A.No.1370 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2024

CORAM

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

**C.M.A.No.1370 of 2024
and
C.M.P.No.12169 of 2024**

Reliance General Insurance Company Ltd.,
No.6, Haddows Road,
Nungambakkam,
Chennai-14.

..Appellant

Vs.

1. Vanaroja,
W/o Murugadoss

2. Sarasvagine,
D/o Murugadoss

3. Vishvakarthikeyan
S/o Murugadoss

..Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor
Vehicles Act, 1988, against the judgment and decree dated 19.06.2023



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passed in MCOP.No.377 of 2020 on the file of Motor Accident Claims Tribunal (I Additional District Judge) at Tindivanam.

For Appellant : Mr.P.Suresh Srinivasan

For Respondents : Mr.K.Elango for R1 to R3
Mr.Shriram Adhithyan for R4

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 19.06.2023 passed in MCOP.No.377 of 2020 on the file of Motor Accident Claims Tribunal (I Additional District Judge) at Tindivanam.

2. Heard the learned counsel the appellant Insurance Company and learned counsel for the respondents and perused the materials available on record.

3. The appellant Insurance Company has challenged the Award on the ground that the quantum of compensation awarded by the Tribunal to the claimants is excessive. According to the appellant, the fixation of notional income and the amount awarded towards loss of consortium,



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funeral expenses and loss of love and affection are on the higher side.

He would further state that the Tribunal had erroneously granted Rs.30,000/- towards loss of companionship.

4. The Tribunal, under the impugned award, directed the Insurance Company to pay the claimants, a compensation of Rs.31,69,000/- (Rupees thirty one lakhs sixty nine thousand only) as detailed hereunder :

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>
Loss of income Rs.22,000 x 12 x 11	29,04,000
Loss towards consortium	1,00,000
Loss of love and affection	1,00,000
Funeral expenses	20,000
Loss of estate	15,000
Loss of companionship	30,000
Total	31,69,000

5. The deceased Murugadoss was a graduate in Bachelor of Engineering and was working as a Site Engineer at Chidambaram and earning a sum of Rs.60,000/- per month at the time of accident. The claimants/ respondents are the wife, daughter and son respectively.



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6. The Tribunal has assessed the notional monthly income of the deceased at Rs.30,000/- and adding 10% towards future prospects, fixed the net income of the deceased as Rs.33,000/- per month and after deducting 1/3rd for his personal expenses i.e., Rs.11,000/-, his contribution to the family as Rs.22,000/-. Considering the age of the deceased as 53 years, applying the multiplier 11, the Tribunal fixed the loss of income as Rs.29,04,000/- ($22,000 \times 12 \times 11$). This Court is of the view that the Tribunal has rightly awarded a sum of Rs.22,000/- per month toward loss of income and hence, the same need not be interfered with.

7. Insofar as the amount of Rs.20,000/- awarded by the Tribunal towards funeral expenses, we find that the same is on the higher side, therefore, we reduced it to Rs.15,000/-. Further, we are of the view that the amount of Rs.1,00,000/- awarded by the Tribunal towards loss of love and affection is just and proper and therefore, the same need not be interfered with.



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8. It is seen from the award that a sum of Rs.1,00,000/- was awarded by the Tribunal towards loss of consortium to the wife of the deceased. However, we find that the amount awarded on the head of loss of consortium is over and above the rates prescribed by the Hon'ble Supreme Court in *National Insurance Company Ltd., Vs. Pranay Sethi reported in (2018) 1 LW 331*. Therefore, we find that it is just and proper to award a sum of Rs.44,000/- towards loss of consortium.

9. Since, compensation has been awarded towards loss of consortium and loss of love and affection, we are of opinion that no amount could be granted towards loss of companionship. Therefore, the amount of Rs.30,000/- awarded towards loss of companionship by the Tribunal has to be removed and accordingly, the same is removed.

10. For the foregoing reasons, this Court is of the considered view that excepting for the modification of the compensation amount under various heads, the claimants are not entitled for enhancement of the overall compensation, but, the Insurance Company is entitled for reduction of the overall compensation as assessed by the Tribunal under



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the impugned award.

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

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income Rs.22,000 x 12 x 11	29,04,000	29,04,000	Confirmed
2.	Loss towards consortium	1,00,000	44,000	Reduced
3.	Loss of love and affection	1,00,000	1,00,000	Confirmed
4.	Funeral expenses	20,000	15,000	Reduced
5.	Loss of estate	15,000	15,000	Confirmed
6.	Loss of companionship	30,000	-	Removed
	Total	Rs.31,69,000	Rs.30,78,000/-	Reduced by Rs.91,000/-

12. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.31,69,000/- is hereby reduced to Rs.30,78,000/- 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



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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.377 of 2020 on the file of the Motor Accident Claims Tribunal (I Additional District Judge) at Tindivanam. 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. No costs. consequently, connected miscellaneous petition is closed.

(J.N.B,J.) (R.K.M., J.)
05.08.2024

Index : Yes / No
Internet : Yes
vsi

To

The Motor Accident Claims Tribunal
(I Additional District Judge)
at Tindivanam.



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and
R.KALAIMATHI, J.

vsi

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