



C.M.A.No.3253 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.12.2024
CORAM

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

C.M.A.No.3253 of 2024
and C.M.P.No.27357 of 2024

Reliance General Insurance Company Ltd.,
Branch Manager,Door No.15/29, 3rd Floor,
North Usman Road, T.Nagar,
Chennai.

... Appellant

Vs.

1. Rajavalli,
W/o Ponambalam

2. Minor Barani,
S/o Ponambalam

3. Minor.Madhavan,
S/o Ponambalam
(2nd & 3rd respondent are Minors
represented by Natural Guardian/Mother
1st respondent)

4. Priyadharshini,
W/o Om Prakash

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the motor Vehicles Act, 1988 against the order dated 15.05.2023 passed in M.C.O.P.No.35 of 2018 on the file of Motor Accident Claims Tribunal, Additional District Court(Fast Track Court), Nagapattinam.



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For Appellant : Mr.P.Suresh Srinivasan

For Respondents : Mr.K.Sukumaran
for R1 to R3
No appearance for R4

JUDGMENT

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

This Civil Miscellaneous Appeal has been preferred by the Insurance Company, challenging the award dated 15.05.2023 passed in MCOP.No.35 of 2018 on the file of Motor Accident Claims Tribunal, Additional District Court(Fast Track Court), Nagapattinam.

2. Heard the learned counsel the appellant Insurance Company and learned counsel for the respondents 1 to 3 and perused the materials available on record.

3. The appellant Insurance Company has challenged the Award only on the ground that the quantum of compensation awarded by the Tribunal to the claimants is excessive.

4. Though the learned counsel for the appellant Insurance Company raised various grounds challenging the award of the Tribunal, he confines his arguments as to the mistake in calculating the loss of dependency made by the Tribunal. Learned counsel for the respondents/



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claimants also agreed that there was an error in the calculation in respect of loss of income.

5. The Tribunal, under the impugned award, directed the Insurance Company to pay the claimants, a compensation of Rs.64,94,800/- (Rupees Sixty Four lakhs Ninety Four thousand Eight Hundred only) as detailed hereunder :

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>
Loss of dependency Rs.32,000 x 12 x 15	57,60,000
Loss of love and affection	75,000
Funeral expenses	10,000
Transportation expenses	10,000
Medical expenses	6,39,868
Total	Rs.64,94,868/- (Rounded off to Rs.64,94,800/-)

6.It is seen from the award that the claimants have stated that the deceased was owning a power boat and he was indulged in deep sea fishing and was earning a sum of Rs.1,00,000/- by selling the fishes to the Fish Agents. To prove the same, the claimants have furnished



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Ex.P16-48 bills of different dates showing that the deceased sold fishes to the Agents. However, they have not furnished any income tax returns for the same. Therefore, on considering the oral and documentary evidence, the Tribunal had taken the monthly income of the deceased as Rs.30,000/-. As there is three dependents for the deceased viz., wife and two children, after deducting 1/3rd towards the personal expenses of the deceased, the Tribunal had fixed the loss of income as Rs.20,000/- per month, which in our opinion is just and proper.

7. Considering the age of the deceased as 36 years, at the time of accident, based on Ex.P2, post-mortem certificate, Ex.P3-death certificate and Ex.P6 legal heir certificate of the deceased, the Tribunal had taken 40% towards future prospects. However, while calculating the future prospects, without deducting 1/3rd for personal expenses, the Tribunal has wrongly taken 40% of income of Rs.30,000/- per month instead of 40% income of Rs.20,000/- per month and after applying the multiplier 15, has wrongly calculated the loss of income as Rs.57,60,000/-(32,000x12x15) instead of Rs.50,40,000/-(28,000x12 x15).

8. A sum of Rs.6,39,868/- was awarded by the Tribunal towards medical expenses only based on the documents Ex.P9 to P15 medical



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bills produced by the claimants. Insofar as the amount of Rs.10,000/- awarded by the Tribunal towards funeral expenses, Rs.10,000/- towards Transportation expenses, Rs.75,000/- (25,000/- to each dependents) are concerned, we are of the view that the same is just and proper and no interference is warranted by this Court.

9. For the foregoing reasons, this Court is of the considered view that except the modification of compensation amount under the head of loss of income, the award of compensation under the other heads passed by the Tribunal, is confirmed.

10. In the light of the above, the compensation awarded 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.28x12x15	57,60,000	50,40,000	Reduced
2.	Loss of love and affection	75,000	75,000	Confirmed
3.	Funeral expenses	10,000	10,000	Confirmed
4.	Transport expenses	10,000	10,000	Confirmed
5.	Medical expenses	6,39,868	6,39,868	Removed
	Total	Rs.64,94,800	Rs.57,74,868/- (Rounded off to Rs.57,74,800/-)	Reduced by Rs.7,20,000/-



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11. In the result, the Civil Miscellaneous Appeal is partly allowed.

i) The compensation awarded by the Tribunal in M.C.O.P.No.35 of 2018 on the file of Motor Accident Claims Tribunal, Additional District Court(Fast Track Court), Nagapattinam, at Rs.64,94,800/- is hereby reduced to Rs.57,74,800/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

ii) 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.35 of 2018 on the file of the Motor Accident Claims Tribunal, Additional District Court (Fast Track Court) Nagapattinam.

iii) On such deposit, the 1st claimant/wife is entitled to Rs.23,74,800/- and she is permitted to withdraw the same along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal.

iv) The 2nd and 3rd minor claimants are entitled to 17,00,000/- each.

Insofar as the share of the minor claimants are concerned, the same



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shall be deposited in 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 claimant once in three months, directly from the Bank.

No costs. Consequently connected miscellaneous petition is closed.

(J.N.B, J.) (R.S.V., J.)
06.12.2024

vsi

To

The Motor Accident Claims Tribunal,
Additional District Court(Fast Track Court),
Nagapattinam.



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vsi

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