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C.M.A.No.3440 of 2019 And C.M.P.No.7186 of 2020
In Cross Objection SR No.156308 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3440 of 2019

And

C.M.P.No.20159 of 2019

And

C.M.P.No.7186 of 2020

In

Cross Objection SR No.156308 of 2019

C.M.A.No.3440 of 2019:

M/s.Reliance General Insurance Co. Ltd.,
Sri Lakshmi Complex, First Floor,
Bharathi Street, Omalur Main Road,
Swarnapuri, Salem – 4.

... Appellant

Vs.

Selvaraj (Deceased)

1.Sasikala @ Asifa

(Impleaded as per order in I.A.No.896/15)

(Amended carried out as per order in I.A.No.1501/17)

2.S.Mohankumar

3.D.Perumal

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 01.06.2017 made in M.C.O.P.No.1474 of 2013 on the file of the Motor Accidents Claims Tribunal, Special District Judge, Salem.



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C.M.A.No.3440 of 2019 And C.M.P.No.7186 of 2020
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For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.C.Thangaraj for R1
Mr.P.Navaneethakrishnan for R2
R3 – No Appearance

**C.M.P.No.7186 of 2020 In
Cross Objection SR No.156308 of 2019:**

Selvaraju (Deceased)
Sasikala @ Asifa

... Petitioner

Vs.

1.S.Mohankumar
2.D.Perumal

3.M/s.Reliance General Insurance Co. Ltd.,
Sri Lakshmi Complex, First Floor,
Bharathi Street, Omalur Main Road,
Swarnapuri, Salem – 4.
T.Nagar, Chennai 600 017.

... Respondents

Prayer:

Civil Miscellaneous Petition filed under Section 151 of Civil Procedure Code, to grant exemption of Court fee for a sum of Rs.9,273/- in Cross Objection SR No.156308 of 2019 pending on the file of this Hon'ble Court.

For Petitioner : Mr.C.Thangaraju

For Respondents : Mr.P.Navaneethakrishnan for R1
Mr.S.Arun Kumar for R3



C.M.A.No.3440 of 2019 And C.M.P.No.7186 of 2020
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COMMON JUDGMENT

C.M.A.No.3440 of 2019 has been filed against the judgment and decree dated 01.06.2017 in M.C.O.P.No.1474 of 2013 on the file of the Motor Accident Claims Tribunal, Special District Judge, Salem.

2.C.M.P.No.7186 of 2020 has been filed seeking to grant exemption of Court fee for a sum of Rs.9,273/- in Cross Objection SR No.156308 of 2019.

3.The third respondent before the Motor Accident Claims Tribunal is the appellant in the civil miscellaneous appeal and the impleaded second petitioner before the Motor Accident Claims Tribunal is the cross objector in the cross objection.

4.The brief facts of the case is that on 24.06.2013 at about 9.00a.m., the deceased Tamilselvi was travelling as pillion rider in the motor cycle bearing Registration No.TN-54-B-8132 driven by Priyadharshini in Salem to Attur Main Road near Pudupalayam at Arulselvam Agricultural Land in West to East direction. At that time a Car bearing Registration No.TN-28-AL-1000 came from opposite



C.M.A.No.3440 of 2019 And C.M.P.No.7186 of 2020
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direction in a rash and negligent manner and dashed against the two wheeler, due to which, both of them died.

5. Thereafter, the husband/ dependant of the deceased Tamilselvi/ Selvaraju filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.60 Lakhs. The said Selvaraju died during the pendency of the claim petition and his daughter was impleaded as second petitioner [hereinafter referred to as the claimant] in the claim petition. After adjudication, the Motor Accidents Claims Tribunal, awarded a sum of Rs.18,54,600/- as compensation to the claimant and directed the Insurance Company to deposit the compensation amount with interest at the rate of 7.5%p.a. from the date of filing of the petition till the date of realization.

6. The learned counsel appearing for the Insurance Company submitted that the claimant did not file any legal heir certificate before the Tribunal and further submitted that the claimant did not disclose whether she is married or not married. The learned counsel further submitted that even assuming that the claimant is entitled to



C.M.A.No.3440 of 2019 And C.M.P.No.7186 of 2020
In Cross Objection SR No.156308 of 2019

claim compensation, the Tribunal ought to have deducted $\frac{1}{2}$ of the amount

towards personal expenses and awarded compensation, however, the Tribunal deducted only $\frac{1}{3}$ of the amount towards personal expenses and awarded compensation which is not sustainable one.

7.Per contra, the learned counsel appearing for the claimant submitted that the claimant's father filed claim petition for the death of his wife and since he died during the pendency of the claim petition, the claimant impleaded herself in the claim petition and further submitted that the Tribunal deducted $\frac{1}{3}$ of the amount towards personal expenses as per the judgment of the Hon'ble Supreme Court in *Sarla Varma and Ors. v. Delhi Transport Corporation and Anr.* reported in 2009 (2) L.S. 29 (S.C.) and awarded compensation, which warrants no interference.

8.Heard the arguments advanced on either side and perused the materials available on record.

9.Admittedly, claim petition was filed by the husband of the



C.M.A.No.3440 of 2019 And C.M.P.No.7186 of 2020
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deceased and since he died during the pendency of the claim petition, the claimant who is his daughter impleaded herself in the claim

petition. The Tribunal has to consider whether the husband of the deceased is the dependent of the deceased. Even assuming the husband of the deceased is the dependent of the deceased, the Tribunal has to award compensation by deducting $\frac{1}{2}$ of the amount towards personal expenses. In the present case, the claimant impleaded herself in the claim petition after the death of the claimant who filed the claim petition, however, she has not disclosed her marital status and even assuming that the claimant/ daughter is entitled to claim compensation, the Tribunal ought to have deducted $\frac{1}{2}$ of the amount towards personal expenses and awarded compensation.

10.The Tribunal has rightly fixed the notional monthly income of the deceased as Rs.17,400/- and has rightly adopted the multiplier 13. If $\frac{1}{2}$ of the amount is deducted towards personal expenses, the amount for loss of income works out to Rs.13,57,200/- [Rs.8,700/- X 12 X 13 = Rs.13,57,200/-]. The amount awarded under the other



C.M.A.No.3440 of 2019 And C.M.P.No.7186 of 2020
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heads, viz., funeral expenses and loss of love and affection, in the opinion of this Court, are just and reasonable and the same are confirmed.

11. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of income	Rs.18,09,600/-	Rs.13,57,200/-
2.	Funeral Expenses	Rs. 25,000/-	Rs. 25,000/-
3.	Loss of love and affection	Rs. 20,000/-	Rs. 20,000/-
	Total	Rs.18,54,600/-	Rs.14,02,200/-

12. The claimant is entitled to total compensation of Rs.14,02,200/- along with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of realization.

13. It is represented by the learned counsel appearing for the Insurance Company that pursuant to the order of this Court dated



C.M.A.No.3440 of 2019 And C.M.P.No.7186 of 2020
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18.09.2019 made in C.M.P.No.20159 of 2019 in C.M.A.No.3440 of 2019, the Insurance Company has deposited 50% of the entire amount awarded by the Tribunal.

14.The civil miscellaneous appeal is partly allowed. The judgment and decree passed in M.C.O.P.No.1474 of 2013 dated 01.06.2017 by the Motor Accidents Claims Tribunal Special District Judge, Salem, is modified to the above extent.

15.The Insurance Company/ appellant in the civil miscellaneous appeal is directed to deposit the modified award amount before the Tribunal, after deducting the amount already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimant/ first respondent in the civil miscellaneous appeal is permitted to withdraw the entire modified award amount, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

16.Since the impugned judgment and decree is modified and the amount awarded by the Tribunal is reduced, this Court finds no



C.M.A.No.3440 of 2019 And C.M.P.No.7186 of 2020
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necessity to grant the relief sought for in C.M.P.No.7186 of 2020 and hence C.M.P.No.7186 of 2020 is dismissed. Consequently, the cross objection is rejected at the SR stage itself.

17.The civil miscellaneous appeal is partly allowed. Consequently, the connected miscellaneous petition is closed. The cross objection is rejected at the SR stage itself. No costs.

05.11.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accident Claims Tribunal,
Special District Judge,
Salem.



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M.DHANDAPANI,J.
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