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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2024

CORAM

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

C.M.A.(MD)Nos.33 of 2019 & 61 of 2018
and
CMP(MD)No.463 of 2019

CMA(MD)No.33 of 2019:

Reliance General Insurance Company Ltd.,
Rep. but is Branch Manager,
15A, PLA Kanagu Towers,
2nd Floor, Thillai Nagar Main Road,
Trichy-18.

.. Appellant/2nd Respondent

Vs.

1.Saravanan

.. 1st Respondents/ Petitioner

2.Minor Balaji

.. Respondents 1&2/Petitioners

3.Suresh

.. 3rd Respondent/1st Respondent

***[Minor 2nd respondent is represented by his father and next friend
1st respondent Saravanan]***

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor
Vehicles Act, 1988, against the fair and decreetal order dated 07.11.2017
passed in MCOP.No.1351 of 2014 on the file of the Motor Accident



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Claims Tribunal, Special District Judge (Full Additional Charge),
Tiruchirappalli.

For Appellant : Mr.V.Sakthivel

For Respondents : Mr.K.Benjamin for R1 & R2

CMA(MD)No.61 of 2018:

1.Saravanan

2. Minor Balaji .. Appellants/Petitioners

*[Minor 2nd petitioner is represented by his father and next friend
1st petitioner Saravanan]*

Vs.

1.Suresh

2. Reliance General Insurance Company Ltd.,
Rep. by its Branch Manager,
15A, PLA Kanagu Towers,
2nd Floor, Thillai Nagar Main Road,
Trichy-18.

.. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decreetal order dated 07.11.2017 passed in MCOP.No.1351 of 2014 on the file of the Motor Accident Claims Tribunal, Special District Judge (Full Additional Charge), Tiruchirappalli.

For Appellants : Mr.K.Benjamin

For Respondents : Mr.V.Sakthivel for R2



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COMMON JUDGMENT

(Judgment of the Court was delivered by P.VELMURUGAN, J.)

C.M.A(MD)No.33 of 2019 has been filed by the Insurance Company and C.M.A(MD)No.61 of 2018 has been filed by the claimants against the award made in M.C.O.P.No.1351 of 2014, dated 07.11.2017, on the file of the Motor Accidents Claims Tribunal Judge, Special District Judge (Full Additional Charge), Tiruchirappalli.

3. Since both the appeals have been arising out of the same judgment and decree, these appeals are taken up together and disposed of by way of this common judgment.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. The learned counsel for the appellants in C.M.A(MD)No.61 of 2018 has not disputed the accident and also the liability. Insofar as the quantum is concerned, since the Tribunal has deducted 1/2 towards personal expenses instead of 1/3rd, challenging the quantum, the



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claimants filed the appeal in C.M.A(MD)No.61 of 2018.

6. The learned counsel for the appellant/Insurance Company in C.M.A(MD)No.33 of 2019, has not disputed the accident and also the liability. Insofar as the quantum is concerned, since the Tribunal has awarded Rs.1,00,000/- towards consortium, which is according to them is excessive. Hence, the insurance company has filed the appeal in C.M.A(MD)No.33 of 2019 challenging the quantum.

7. In the other connected appeal in C.M.A(MD)No.34 of 2019, this Court has given finding that there is no contributory negligence on the part of the rider of the two wheeler/claimant and therefore, as far as the negligence and liability is concerned, there is no serious dispute. As far as the quantum of compensation is concerned, the accident is admitted.

8. Due to the accident, the deceased died leaving behind her husband and son. At the time of accident she was working as a Headmistress and earning a sum of Rs.55,000/- per month and salary certificate was produced and marked as Ex.P10. However, the Tribunal



has rightly taken the monthly income as Rs.46,480/- as per the last salary received by the deceased and also considered the age of the deceased, applied the multiplier of 14. Since the employer's age is 44 years, future prospects is fixed at 30%. Except the heads of love and affection and consortium, other heads are in order and they remain unaltered. Accordingly, each claimants are entitled only Rs.40,000/- each, under these heads, towards consortium and love and affection, totally Rs. 80,000/-. Hence, the award of compensation is modified as under:

Sl. No	Description	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.	Award confirmed, enhanced or granted
1	Loss of Dependency	50,75,616/-	50,75,616/-	Confirmed
2	Consortium and Love & Affection	3,00,000/-	80,000/-	Reduced
3	Funeral and Transportation Expenses	20,000/-	20,000/-	Confirmed
Total		Rs.53,95,616/-	Rs.51,75,616/-	

9. With the above modification, these Civil Miscellaneous Appeals are partly allowed and the award amount is reduced from Rs.53,95,616/- to Rs.51,75,616/- with interest at the rate of 7.5% p.a from the date of



claim petition till the date of realisation. The insurance company is directed to deposit the modified award amount with accrued interest and costs, less the excess amount already deposited, if any, within a period of four(4) weeks from the date of receipt of a copy of this order. On such deposit, the major claimant/first appellant in C.M.A(MD)No.61 of 2018 permitted to withdraw his share in the award amount by filing necessary application before the Tribunal. The Tribunal is directed to deposit the share of the minor claimant/2nd appellant in C.M.A(MD)No.61 of 2018 in any one of the Nationalized Bank, in an interest bearing fixed deposit, initially for a period of three years, renewable thereafter, till he attains majority. The first appellant in C.M.A(MD)No.61 of 2018, father and guardian of the minor claimant/2nd appellant in C.M.A(MD)No.61 of 2018 is permitted to withdraw interest from the deposits made in the name of minor claimant once in three months, directly from the Bank and utilize the same for the welfare of the child. No Costs. Consequently, connected miscellaneous petition is closed.

(P.V., J.) (K.K.R.K., J.)
05.09.2024

NCC:Yes/No
Index:Yes/No
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To

1. The Special District Judge (Full Additional Charge),
Motor Accident Claims Tribunal, Tiruchirappalli.
2. The Section Officer,
Vernacular Records Section,
Madurai Bench of Madras High Court, Madurai.



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P.VELMURUGAN, J.
and
K.K.RAMAKRISHNAN, J.

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