



C.M.A.No.2378 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 21.03.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**C.M.A.No.2378 of 2013
and
Cross Objection No.76 of 2015
and
C.M.P.Nos.15536 & 15538 of 2021**

C.M.A.No.2378 of 2013:

The New India Insurance Company Ltd.,
Motor 3rd Party Claims Office,
No.69, 70, Shelkpet Nadu Street,
Kancheepuram.

... Appellant

-Vs-

1. V.S.Rajalakshmi (deceased)
2. M/s.Sankagiri Pallipalayam Bus Transport (P) Ltd.,
(Owner of the vehicle)
No.27-A, Post Office Road,
Sankari Post & Taluk,
Salem District.
3. M/s.National Insurance Company Limited,
Motor 3rd Party Claims Office,
No.19, Officer Line, 1st Floor,
Post Box No.157,
Vellore - 1.
4. T.Arokiyasamy
5. Sheeja
6. Letis Devasundaram
7. Devasundaram



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8. R.Venkatesa Subraanian

9. Minor V.Aravind

... Respondents

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(R8 & R9 have been impleaded as legal heirs of the first respondent vide order dated 14.10.2015 made in M.P.No.2 of 2015 in C.M.A.No.2378 of 2013)

(R9 is declared as major and his father R8 viz., R.Venkatesa Subramanian is discharged from Guardianship of R9 vide order dated 21.10.2024 made in C.M.P.Nos.15377 & 15378 of 2021 in C.M.A.No.2378 of 2013)

PRAYER : Appeal under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 31.07.2012 made in M.C.O.P.No.115 of 2008 on the file of the Motor Accidents Claims Tribunal, Court of Chief Judicial Magistrate, Chengalpattu.

For Appellant	:	Mr.K.Vinod
For Respondent	:	R1 - Died
		Mr.D.Baskaran for R3
		Mrs.G.Devi
		for Mr.V.Ragupathy for R8 & R9
		R2, R4 to R7 - exparte

Cross Obj. No.76 of 2015:

1.V.S.Rajalakshmi

2. R.Venkatesa Subramanian

3. Minor V.Aravind

... Petitioners

(P2 & P3 have been impleaded as legal heirs of the first petitioner vide order dated 14.10.2015 made in M.P.No.3 of 2015 in Cross Obj. No.76 of 2015)

(P3 is declared as major and his father P2 viz., R.Venkatesa Subramanian is discharged from Guardianship of P3 vide order dated 21.10.2024 made in C.M.P.Nos.15377 & 15378 of 2021 in C.M.A.No.2378 of 2013)



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2013)

-Vs-

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Kancheepuram.
2. M/s.Sankagiri Pallipalayam Bus Transport (P) Ltd.,
(Owner of the vehicle)
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Vellore - 1.
4. T.Arokiyasamy
5. Sheeja
6. Letis Devasundaram
7. Devasundaram

... Respondents

PRAYER : Cross Objection under Section 173 of Motor Vehicles Act, 1988 to allow the cross objection by modifying the award of the Tribunal dated 31.07.2012 made in M.C.O.P.No.115 of 2008 by directing the first respondent / appellant to pay further compensation of Rs.5,00,000/- to the cross obejctor / claimant together with interest.

For Appellant : Mrs.G.Devi

For Respondent : Mr.K.Vinod for R1



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Mr.D.Baskaran for R3
R2, R4 to R7 - exparte

COMMON JUDGMENT

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This civil miscellaneous appeal has been directed against the award dated 31.07.2012 made in M.C.O.P.No.115 of 2008 on the file of the Motor Accident Claims Tribunal, Court of Chief Judicial Magistrate, Chengalpattu.

2. It was an accident in the year 2007, where one Rajalakshmi was severely injured and she had gone into coma stage and she had been given continuous treatment for eight years but she died on 05.08.2015, therefore it can be stated as fatal accident due to the said accident taken place in the year 2007, on this issue there could be no dispute between the parties.

3. This appeal has been filed by the Insurance Company questioning the liability, however cross objection has been filed by the first respondent / claimant seeking for enhancement of compensation.

4. It is to be noted that there were totally seven appeals arising out of the same accident filed by the appellant / Insurance Company. Already six appeals



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have been decided, where the liability issue has been decided against the

appellant / Insurance Company and in favour of the claimants respectively.

Therefore, in this appeal also, we do not propose to take any different view which may not be proper also.

5. Therefore as far as the appeal that has been filed by the appellant / Insurance Company with regard to the liability is concerned, it is to be answered in favour of the respondents / claimants and against the appellant / Insurance Company.

6. Coming to the point of quantum, since the cross objection has been filed for enhancement, after taking into account the salary component of the deceased and after deducting the income tax by adding future prospects 40% and employing multiplier of '16' by deducting 1/3rd for personal expenses, we do feel that a sum of Rs.49,64,704/- would be the 'loss of dependency' including the future prospects. Since we are granting compensation under the head 'loss of dependency', the compensation of Rs.38,40,000/- awarded by the Tribunal under the head 'loss of earning power' is unwarranted and hence, the same is set aside. As the first respondent was succumbed to the injuries, the compensation of Rs.1,00,000/- awarded under the head 'Pain and Sufferings' is set aside.



Under other heads, the amounts awarded by the Tribunal almost is to be

confirmed except one or two areas where the loss of consortium, loss of estate

and funeral expenses have been omitted to be given by the Tribunal which we

have given, ultimately the following calculation would come:

Loss of Dependency:

Annual Income of the deceased	:	Rs.4,03,511/-
Less Tax	:	Rs. 71,053/-
		
		Rs.3,32,458/-
Add Future prospects (40%)		Rs.1,32,983/-
		
Total Annual Income of the deceased :		Rs.4,65,441/-
		
Loss of Dependency (4,65,441 x 16 x 2/3) =		Rs.49,64,704/-

Particulars	Amount awarded by the Tribunal	Award may be modified as
Transport to Hospital	25,000.00	25,000.00
Extra nourishment	25,000.00	25,000.00
Attender charges	25,000.00	25,000.00
Medical expenses	7,57,716.00	7,57,716.00
Future Medical Expenses	40,000.00	40,000.00
Pain and sufferings	1,00,000.00	-
Loss of earning power	38,40,000.00	-
Loss of Dependency	-	49,64,704.00
Loss of Consortium	-	80,000.00
Loss of estate	-	15,000.00
Funeral Expenses	-	15,000.00
Total Compensation	48,12,716.00	59,47,420.00



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WEB COPY 7. The amount of Rs.59,47,420/- could be the proper compensation payable by the appellant to the respondents 8 & 9 who had filed the cross objection. Hence, the award amount of Rs.48,42,716/- is modified and enhanced into Rs.59,47,420/- and for this calculation and the modified award amount, both parties have not raised any serious objection. Taking note of all these aspects, the order impugned, i.e., the award passed by the Tribunal in M.C.O.P.No.115 of 2008 dated 31.07.2012 is modified to the aforesaid effect and accordingly, this Civil Miscellaneous Appeal and the Cross Objection are disposed of.

8. It is submitted that only a part amount of the award passed by the Tribunal has been deposited by the appellant / Insurance Company, therefore the remaining amount as per the modified award amount as per this order shall be deposited by the appellant / Insurance Company within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made with interest, the same can be withdrawn by the respondents 8 & 9 equally upon filing due application without any further reference to this Court. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.



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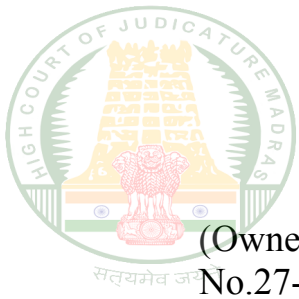
(R.S.K., J.) (A.D.M.C., J.)
21.03.2025

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

vji

To

1. The Motor Accidents Claims Tribunal,
Court of Chief Judicial Magistrate,
Chengalpattu.
2. M/s.Sankagiri Pallipalayam Bus Transport (P) Ltd.,



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V.R. Section,
High Court, Chennai.



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