



C.M.A.No.1870 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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DATED: 25.02.2025

**CORAM:**

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

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and

C.M.P. No. 13578 of 2022

The Manager,  
Reliance General Ins.Co.Ltd.,  
No.6, Haddows Road, Reliance House,  
6<sup>th</sup> floor, Nungambakkam,  
Chennai 6. ... Appellant

Vs.

1.Mrs. S. Lakshmi  
2.Minor S. Baby Shalini  
3.Minor S. Shobana  
4.Minor S.Sowmaiya  
(Minors rep., by NG and mother S.Lakshmi)  
all residing at No.202, Mariyamman Koil Street,  
Bujjireddy Palli Colony, Tiruttani Taluk,  
Tiruvallur District.)

5.Mr. B. Mohan ... Respondents



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**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 25.08.2021 made in M.C.O.P.No.201 of 2015 on th file of the Motor Accident Claims Tribunal, Sub ordinate Judge Court, Tiruttani.

For Appellant : Ms. C. Bhuvanasundari.

For Respondents : Mr. K.R. Ponnusamy for  
M/s.Anand & Surya for R1 to R4.

R5 – Exparte.

### **J U D G M E N T**

(Delivered by Dr. A.D. Maria clete, J)

The present Civil Miscellaneous Appeal (CMA) has been preferred under Section 173 of the Motor Vehicles Act, 1988, by the appellant, Reliance General Insurance Co. Ltd., challenging the award dated 25.08.2021 in M.C.O.P. No. 201 of 2015 passed by the Motor Accident Claims Tribunal, Sub Court, Tiruttani.



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2. The Facts of the Case in Brief: The claimants, being the wife and minor children of the deceased Settu, filed M.C.O.P. No. 201 of 2015 before the Tribunal seeking compensation for the death of Settu in a motor vehicle accident on 16.06.2015. The deceased, along with one Supphuru, was riding a motorcycle when a tempo traveller bearing registration No. TN 20 BY 1206, driven rashly and negligently, collided with the motorcycle. Settu succumbed to injuries sustained in the accident.

3. The Tribunal, after considering the evidence, awarded a sum of Rs. 19,77,100/- with interest at 7.5% per annum from the date of claim petition till realization.

4. The appellant insurance company has filed this appeal challenging the award mainly on the following grounds: The Tribunal failed to consider the contributory negligence of the deceased, as he was allegedly under the influence of alcohol at the time of the accident. The Tribunal erred in determining the



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deceased's notional income at Rs. 10,000/- per month. The award of the parental

consortium is excessive. The interest awarded is disproportionate.

5. The appellant contends that the deceased was under the influence of alcohol at the time of the accident and, therefore, contributed to the occurrence. However, the Tribunal has rightly found that there was no proper evidence to establish contributory negligence. The post-mortem certificate merely states that the deceased's mouth was closed, and there was no pulse, which is not conclusive proof of intoxication. Further, the accident occurred due to the rash and negligent driving of the tempo driver, who was charge-sheeted by the police. The Tribunal's finding that the appellant failed to prove contributory negligence is therefore upheld.

6. The Tribunal adopted a notional income of Rs. 10,000/- per month, considering the deceased's occupation as a weaver. The appellant contends that no documentary evidence was produced to prove this income. However, in the absence of direct proof, the Tribunal was justified in adopting a reasonable



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notional income based on prevailing wages. Further, the Tribunal has rightly applied the multiplier method as per the Judgment in *Sarla Verma v. DTC* [(2009) 6 SCC 121]. The future prospects were also appropriately considered as per *National Insurance Co. Ltd. v. Pranay Sethi* [(2017) 16 SCC 680]. Hence, this Court finds no infirmity in the calculation of loss of dependency.

7. The appellant argues that parental consortium should not have been awarded to each minor child. However, the Hon'ble Supreme Court in *Magma General Insurance Co. Ltd. v. Nanu Ram* [(2018) 18 SCC 130] has recognized parental consortium for minor children. The Tribunal awarded Rs. 40,000/- to each child, which is in line with established legal principles and cannot be termed excessive.

8. The appellant seeks reduction in the interest rate of 7.5% per annum. This Court finds that the Tribunal has awarded the standard rate of interest in consonance with various judicial pronouncements, including *Dhanraj v. New India Assurance Co. Ltd.* [(2004) 8 SCC 553]. Therefore, no interference is warranted.



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9. In these circumstances, this Court finds that the award passed by the Tribunal is just and reasonable and there is no ground to interfere with the Award passed by the Tribunal.

10. Hence, this Civil Miscellaneous Appeal stands dismissed, confirming the compenstion awarded by the Tribunal at Rs. 19,77,100/- with interest at 7.5% per annum. The appellant is directed to deposit the entire award amount, if already not deposited with accrued interest before the Tribunal within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the first respondent/claimant is permitted to withdraw her respective share of the award amount along with proportionate interest and costs as per the apportionment fixed by the Tribunal, less the amount if any, already withdrawn. The shares of the second to fourth respondents/minors are directed to be deposited in any of the Nationalized Bank in the interest bearing Fixed Deposit as per the apportionment fixed by the Tribunal till they attain majority and the first respondent/claimant, mother of the minor respondents 2 to 4 is permitted to withdraw the accrued



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interest once in three months for the welfare of the minors. No costs.

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Consequently, the connected Miscellaneous petition is closed.

(R.S.K., J) (A.D.M.C., J)  
25.02.2025

ay

To

1.The Motor Accident Claims Tribunal,  
Subordinate Judge Court,  
Tiruttani.

2.The Section Officer,  
VR Section,  
High Court of Madras,  
Chennai.



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**R. SURESH KUMAR, J**  
**and**  
**DR. A.D. MARIA CLETE, J**

*ay*

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