



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-08-2025

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**THE HONOURABLE MRS JUSTICE J. NISHA BANU
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**C.M.A.No. 2756 of 2023
and C.M.P.No.25408 of 2023**

Reliance General Insurance Company Ltd.
Legal Department NO. (10 and 11) 5th Floor,
Dr.Radhakrishnan Road, Chennai Citi
Centre, Mylapore, Chennai 004.

Appellant

Vs

1. Kalarani
W/o. Gurusamy (Late) No.9, Anna
Street, R.M.K.Nagar, New
Perungalathur, Chennai 063.

2.Ajith Kumar
S/o. Gurusamy (Late) No.9, Anna
Street, R.M.K.Nagar, New
Perungalathur, Chennai 063.

3.G.Vinoth Kumar
S/o. Gurusamy (Late) No.9, Anna
Street, R.M.K.Nagar, New
Perungalathur, Chennai 063.



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4.G.Ranjani

D/o. Gurusamy (Late) No.9, Anna
Street, R.M.K.Nagar, New
Perungalathur, Chennai 063.

5.Poochammal

W/o. Singakutty No.9, Anna Street,
R.M.K.Nagar, New Perungalathur,
Chennai 063.

6.Rajesh Kumar

S/o. Nagenderan No. 2/150A,
Bandhicarapalli, Krishnagiri 635 115.
(6th Respondent set ex parte in the
Lower Court)

Respondent(s)

PRAYER: The Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 28.09.2022 passed in M.C.O.P No. 224 of 2018 before the Motor Accident Claims Tribunal (II Judge, Court of Small Causes), Chennai.

For Appellant(s): Ms. G.Sukumari

For Respondent(s): Mr. K.Varadhakamaraj For R1 to R5

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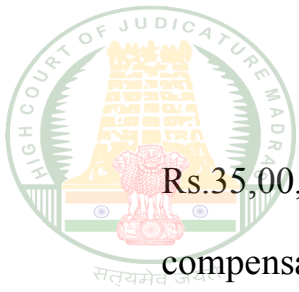
JUDGMENT*(Judgment of the Court was delivered by **J.NISHA BANU, J.**)*

Challenging the Award passed by the Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai, ['Tribunal' in short] in M.C.O.P.No.224 of 2018, dated 28.09.2022, the second respondent/ Insurance Company has preferred this Civil Miscellaneous Appeal.

2. For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3. The case of the petitioner is that on 07.11.2017 at about 19.10 hours while the deceased was crossing at Oragadam – Sriperumbudur Road, Near Axis Bank ATM, Mathur, Kanchipuram District, a motorcycle bearing Registration No.TN-24-AJ-7346 driven by its rider, hit the deceased. Due to the said accident, the deceased sustained severe head injury and multiple injuries all over the body. After the accident, he was taken to Jaya Hospital, Sriperumbudur, where he succumbed to death.

3.1. Therefore, the legal representatives of the deceased have filed a claim petition in M.C.O.P.No.224 of 2018, on the file of the Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai, claiming compensation of



Rs.35,00,000/-. The Tribunal has awarded a sum of Rs.26,43,900/- as total compensation, vide order dated 28.09.2022. Aggrieved over the same, the Insurance Company has filed the present Appeal.

4. The learned counsel for the appellant/Insurance Company submits that the Tribunal erred in holding that the alleged accident was caused due to the rash and negligent driving of the driver of the 6th respondent and also erred in assessing the monthly income of the deceased as Rs.21,000/- without any basis and wrongly added 15% thereof towards future prospects, which is on the higher side. He also submits that the Tribunal erred in granting a sum of Rs.2,20,000/- towards loss of consortium at the rate of Rs.44,000/- for each claimant, without any basis. He further contends that the award of compensation to the tune of Rs.26,43,850/- under various heads is unsustainable and warrants interference in the interest of justice.

5. Before the Tribunal, the wife of the deceased was examined as P.W.1 and one Elumalai/eyewitness to the accident was examined as P.W.2. Both of them deposed that the accident occurred solely due to the rash and negligent driving of the driver of the Motor Cycle bearing Registration No: TN-24-AJ-7345. Ex.P1/F.I.R also supports the case of the claimants rather than respondents.

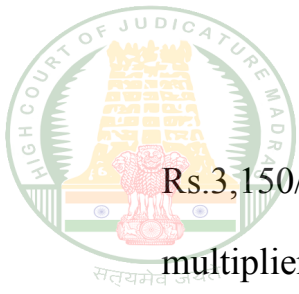


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6. From the evidence, it is clear that the motor cycle bearing Reg.No.TN-24-AJ-7345, which was driven in a rash and negligent manner at high speed, hit the deceased, when he was crossing the road. As a result, the deceased sustained head injury and multiple injuries all over the body. Thus, the Tribunal fixed the negligence on the part of the driver of the Motor Cycle bearing Reg.No.TN-24-AJ-7345, which in our opinion, appears to be proper.

7. Insofar as the contention of the learned counsel for the appellant that the Tribunal ought not to have fixed the monthly income of the deceased as Rs.21,000/- is concerned, it is to be noted that the deceased was employed as a Mechanic with M/s.Yesgt Travels and was earning a sum of Rs.21,000/- per month. The Pay Slip of the deceased was marked as Ex.P6. Therefore, the Tribunal fixed the monthly income of the deceased at Rs.21,000/-, which in our opinion is fair and proper.

7.1. As per the decision rendered in *National Insurance Co. vs Pranay Sethi and others reported in 2017 (2) TNMAC 601*, 15% was added towards future prospects, since the age of the deceased was 55 at the time of accident. Thus, by awarding 15% of his income towards future prospects, a sum of Rs.3,150/- ($\text{Rs.21,000} \times 15/100 = \text{Rs.3,150/-}$) was added to his monthly contribution and his monthly contribution comes to Rs.24,150/- ($\text{Rs.21,000/-} +$



Rs.3,150/-). After deducting 1/4th towards personal expenses and by applying multiplier 11, as per the decision rendered in ***Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 4 MLJ (SC) 997***, since the age of the deceased was 55 at the time of death, the loss of dependency is computed at Rs.23,90,850/- (Rs.24,150 x 12 x 11 x 3/4) and this Court is not inclined to interfere with the same.

7.2. That apart, a sum of Rs.16,500/- was awarded towards Loss of Estate, a sum of Rs.2,20,000/- (Rs.44,000/- each to the dependents) towards Loss of consortium to the wife and Loss of Love and Affection to the children and parent of the deceased and a sum of Rs.16,500/- was awarded towards Funeral Expenses, which are just and reasonable.

8. We do not find any infirmity or illegality in the said findings of the Tribunal, warranting interference by this Court. Therefore, we are of the opinion that the award passed by the Tribunal has to be confirmed.

9. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the Award of the Motor Accident Claims Tribunal (II Judge, Court of Small Causes), Chennai, dated 28.09.2022 passed in M.C.O.P.No.224 of 2018. The Appellant/ Insurance Company shall deposit the entire compensation amount, along with interest and costs, as awarded by the Tribunal, less the amount



already deposited, if any, within a period of four (4) weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw their share of the award amount on the basis of apportionment made by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(J.NISHA BANU J.) (M.JOTHIRAMAN J.)
19-08-2025

ASI

To

1.Kalarani

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S/o. Nagenderan No. 2/150A,
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7. The Motor Accident Claims Tribunal,
(II Court of Small Causes), Chennai.



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