



C.M.A.No.2701 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 03.04.2025

CORAM

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

**C.M.A.No.2701 of 2024
and
C.M.P.No.21476 of 2024**

Cholamandalam MS General Insurance Co. Ltd.,
No.189A, Selva Nagar, 4 Road,
Thuraimangalam,
Perambalur - 621 220.

... Appellant

-Vs-

1. Radhakrishnan

2. Ramamirtham

3. G.Sekar

... Respondents

PRAYER : Appeal under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 17.07.2023 made in M.C.O.P.No.108 of 2021 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur.

For Appellant : Ms.Harini

For Respondents : Mr.S.Kamadevan



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J U D G M E N T

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

This civil miscellaneous appeal has been directed against the award dated 17.07.2023 made in M.C.O.P.No.108 of 2021 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur.

2. Due to the motor accident occurred on 25.01.2021, one Rajenthiran died and since he was a bachelor, the two dependants, namely, the parents had approached the Tribunal and filed the said MCOP seeking a compensation of Rs.75,00,000/-.

3. The Tribunal, have considered the factual matrix, where it has been projected that the deceased was a B.E., degree holder and was working in a private Company in Kuwait and the parents were claiming that the deceased earning Rs.50,000/- per month, for which, even though no salary certificate had been produced, only the experience certificate and degree certificate of B.E., qualification of the deceased have been produced on behalf of the claimants and having taken note of these factors, has fixed the monthly salary at

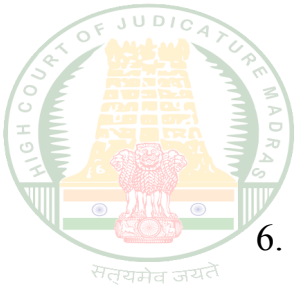


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Rs.40,000/- and accordingly, by calculating the compensation payable to the victim's family by employing multiplier method, has awarded a compensation of Rs.43,36,500/.

4. Aggrieved over the quantum of the award passed by the Tribunal through impugned award, the Insurance Company has preferred the present appeal.

5. Heard Ms.Harini, learned counsel appearing for the appellant / Insurance Company who would submit that for the purpose of fixing the salary at Rs.40,000/- by the Tribunal, there has been no documents and the burden of proof since lies on the shoulder of the claimants to establish that the deceased was earning Rs.50,000/- per month, the Tribunal ought not to have taken the said claim and fixed the salary at Rs.40,000/- only on the presumption, therefore, on that ground, the quantum of award fixed by the Tribunal is erroneous, hence, the present appeal has to be allowed by reducing the award amount by taking into account of the salary of the deceased atleast Rs.30,000/- per month.



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6. We have also heard Mr.S.Kamadevan, learned counsel appearing for the respondents / claimants who would submit that, even though the salary claim was made at Rs.50,000/- for which the experience certificate and qualification certificate have been produced before the Tribunal by the claimants who are the parents of the deceased, where the Tribunal has taken only Rs.40,000/- as salary, even that itself is a reduced one, therefore the quantum that has been fixed by way of compensation through the impugned award does not warrant any interference.

7. We have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

8. Insofar as the fixation of the monthly salary at Rs.40,000/-, the reasoning has been given by the Tribunal stating that the deceased was a B.E., degree holder and he had gone for job and had been working in a company for which the documents have been produced to establish that he had been working in a company. When that being so, a B.E., degree holder had been working in a private company in a foreign country, certainly, he would have earned at least Rs.40,000/- per month.



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10. Assuming that, it was only the presumption on the part of the Tribunal to fix the salary at Rs.40,000/-, the arguments were advanced by the learned counsel appearing for the appellant / Insurance Company that the salary should have been taken only at Rs.30,000/- per month, even for such an argument, there has been no document at the hands of the appellant / Insurance Company and the learned counsel also would submit that, the assertion of Rs.30,000/- of monthly salary itself would be a presumption.

11. In the present case, the appellant / Insurance Company's presumption is that the deceased would have earned only Rs.30,000/- per month and the claim of the respondents / claimants who are the parents of the deceased is that he was earning Rs.50,000/- per month and the Tribunal after having gone through the social status and the educational qualification and the place in which he claimed to have worked which being a foreign country has come to the conclusion that the monthly salary must be atleast Rs.40,000/-.



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12. Such an assertion made by the Tribunal based on the aforesaid reason cannot be found fault with, therefore, we do not see any reason to interfere with the award passed by the Tribunal, therefore, this Civil Miscellaneous Appeal is deserved to be dismissed, and accordingly it is dismissed.

13. It is brought to our notice by the learned counsel appearing for the appellant / Insurance Company that during the pendency of the appeal, the entire award amount has already been deposited in the lower Court and a part of the amount has already been withdrawn by the respondents / claimants. The remaining amount lying in the account along with the interest can be withdrawn by the respondents / claimants in full by filing a petition therein without further reference to this Court. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.)

(A.D.M.C., J.)

03.04.2025

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To

1. The Motor Accidents Claims Tribunal,
Principal District Judge,
Perambalur.
2. The Section Officer,
V.R. Section,
High Court,
Chennai.



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