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C.M.A.No.730 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2025

CORAM :

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

C.M.A.No.730 of 2025

Reliance General Insurance Company Limited
3rd Floor, Sakthi Super Market Building
No.408, Perundurai Road
Erode – 638 011.

.. Appellant

Vs.

1. C.Chitra
2. Nandhakumar
3. Priyadharshini (minor)
4. Nachammal
5. M.Boopathy
6. P.Balasubramani

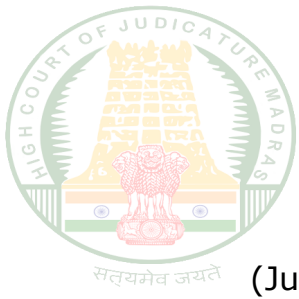
.. Respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 15.02.2024 passed in M.C.O.P.No.242 of 2019 on the file of the MACT Special District Judge, Erode.

For the Appellant : Mr.P.Suresh Srinivasan

For the Respondents : Mr.S.P.Yuaraj
for R1 to R4

R5 & R6 set *ex parte*



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JUDGMENT

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

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This civil miscellaneous appeal is arising out of the award passed by the Motor Accident Claims Tribunal, that is the Special District Judge (to deal with the MCOP cases), Erode, made in M.C.O.P.No.242 of 2019 dated 15.02.2024.

2. Due to the motor vehicle accident that occurred on 02.07.2019, one *Nachimuthu* died, as he drove a motorcycle bearing Registration No. TN 56 8089, which collided with a TATA 407 Vehicle bearing Registration No. TN 33 S 0077. Due to the death of the said *Nachimuthu*, the wife, children, who are the legal heirs, as well as the mother of the said *Nachimuthu* filed the said MCOP, seeking compensation to a sum of Rs.60 lakhs with interest.

3. The Tribunal, having considered the evidences adused before it, has come to a conclusion and fixed the notional income of the deceased *Nachimuthu* at Rs.15,000/- per month and based on the same, after deducting 1/4th for personal expenses, by adding 25% for future prospects, by adding spousal consortium, parental consortium, as well as the children and the expenses for funeral and loss of estate, had ultimately awarded total compensation to an extent of Rs.24,25,650/-, payable by the appellant Insurance



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Company.

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4. Aggrieved over the quantum of compensation awarded by the Tribunal, the Insurance Company has preferred the present civil miscellaneous appeal.

5. Heard *Mr.P.Suresh Srinivasan*, learned counsel appearing for the appellant Insurance Company and *Mr.S.P.Yuaraj*, learned counsel appearing for the respondents 1 to 4.

6. *Mr.P.Suresh Srinivasan*, learned counsel appearing for the appellant Insurance Company would submit that there are two grey areas in the award ordered by the Tribunal, against which only this appeal has been filed. With regard to the quantum of the award passed by the Tribunal, according to him, the notional income of the deceased *Nachimuthu* has been fixed at Rs.15,000/- per month, which is on the higher side and under various Heads, like Consortium for wife, children and parent and other expenses, excess amount has been awarded. Therefore, in order to rectify the excess amount, awarded under various Heads and to modify the quantum, this appeal has been preferred, the learned counsel for the appellant Insurance Company contended.



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7. However, *Mr.S.P.Yuaraj*, learned counsel appearing for the respondents 1 to 4 would submit that the notional income fixed at Rs.15,000/- per month is fair enough. In fact, the same is very low and therefore, it does not warrant any interference and in other Heads also, what is deserved to be awarded alone has been awarded. Therefore, under the other Heads also, the award does not warrant any interference at the hands of this Court, he contends.

8. We have considered the said submissions made by learned counsel appearing for both sides and have perused the materials placed before this Court.

9. Insofar as the fixation of notional income at Rs.15,000/- per month is concerned, since the accident took place in the year 2019, as per the method to be adopted by the Courts in fixing notional earning as per the judgment of a Division Bench of this Court in the case of ***Andal and Ors. vs. Avinav Kannan and Anr.¹***, the notional income for the year 2019-20 could be fixed at Rs.14,562/-.

¹ C.M.A.No.2330 of 2017; Dated: 09.10.2018.



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10. Therefore, if at all notional income has to be fixed strictly following the said decision, it must be Rs.14,500/- and not Rs.15,000/-. Accordingly, we reduce the said fixation of notional income of the deceased *Nachimuthu* from Rs.15,000/- per month to Rs.14,500/- per month and after deducting 1/4th for person expenses, it comes to Rs.13,594/-. If 13 is the multiplier, the total amount would be Rs.13,594/- (x) 12 (x) 13 = Rs.21,20,664/-. Therefore, under the Heading "for loss of dependency", we do feel that instead of Rs.21,93,750/-, as awarded by the Tribunal, it could be modified into Rs.21,20,664/-. Insofar as the other Heads are concerned, for "spousal consortium", the Tribunal awarded Rs.48,400/-, which shall be reduced to Rs.40,000/-. Like that, for "parental consortium for two children", the Tribunal awarded Rs.98,800/-, which we reduce to Rs.80,000/-. For "loss of filial consortium", the Tribunal again awarded Rs.48,400/-, which stands reduced to Rs.40,000/-. Under "funeral expenses", Rs.18,150/- was awarded by the Tribunal, which we modify into Rs.15,000/- and for "compensation for loss of estate", Tribunal awarded Rs.18,150/-, which we modify into Rs.15,000/-. For the damages to the clothing and articles, Rs.2,000/- was awarded, which we confirm.



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11. Therefore, altogether, a sum of Rs.23,12,664/- would be the compensation award, instead of Rs.24,25,650/-, the total award passed by the Tribunal through the impugned order. Hence, with the aforesaid discussion, the total award amount of Rs.24,25,650/-, as awarded by the Tribunal through the impugned order, is modified into Rs.23,12,664/-.

12. The said modified award amount as per this order, that is Rs.23,12,664/-, if not deposited already, shall be deposited by the appellant Insurance Company within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, it is open to the respondent claimants to withdraw the entire award amount without any further reference to this Court.

13. With these modification of the impugned award, the present civil miscellaneous appeal stands disposed. However, there shall be no order as to costs. Consequently, C.M.P.No.5757 of 2025 is closed.

(R.S.K., J.) (A.D.M.C., J)
19.03.2025

Neutral Citation:Yes/No

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AND
A.D.MARIA CLETE, J.

(drm)

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