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C.M.A.No.3560 of 2024

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

**DATED : 07.01.2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**C.M.A.No.3560 of 2024**

**And**

**C.M.P.No.30062 of 2024**

Chola MS General Insurance Co. Ltd.,  
No.157, Bazar Street,  
Perambalur.

... Appellant

**Vs.**

1.P.Pandi Selvi  
2.Minor.P.Hashini  
3.Minor.P.Harish

(the 2<sup>nd</sup> and 3<sup>rd</sup> respondents are rep.  
by their mother Pandi Selvi)

4.K.Ramaiyan  
5.R.Amirtham  
6.N.Sudhakar Vadlani

... Respondents

**Prayer:**

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 01.08.2023 made in M.C.O.P.No.833 of 2018 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur.

For Appellant : Mr.B.Siva Kollapan



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

This appeal has been filed against the judgment and decree dated 01.08.2023 passed by the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur, in M.C.O.P.No.833 of 2018.

2.The learned counsel appearing for the appellant submitted that the dependants of the deceased Pasupathy filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.50 Lakhs alleging that on 12.03.2018 at about 6.30 hours, when the deceased was performing his duty as driver in the van bearing Registration No.TN 37-CQ-7072 in Kovai to Neelambur L&T bye pass road from North to South, a container lorry bearing Registration No.AP 16-TA-6479 belonging to the sixth respondent and insured with the appellant came in the opposite direction in a rash and negligent manner and dashed against the van, due to which, the deceased died on the spot. After adjudication, the Tribunal awarded a sum of Rs.37,91,400/- as compensation to the claimants along with interest at 7.5% p.a. from the date of petition till the date of realization with costs and directed the appellant to deposit the amount.



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3.The learned counsel appearing for the appellant further submitted that the deceased is an ambulance van driver and he drove the ambulance at over speed and dashed against the container lorry insured with the appellant, however, the Tribunal fastened the entire liability as against the appellant which is not sustainable one. The learned counsel further submitted that though Ex.P6 – salary certificate was marked, the claimants did not examine the employer of the deceased, however, the Tribunal fixed a sum of Rs.17,000/- per month as the notional income of the deceased and awarded compensation for loss of dependency which is onerous and further submitted that the amount awarded under the other heads also are on the higher side.

4.Heard the learned counsel appearing for the appellant and perused the materials available on record. Since this Court is not inclined to pass any adverse order as against the respondents, notice to the respondents is dispensed with.

5.Before the Tribunal, the first respondent/ first claimant has examined herself as P.W.1 and one Gunasekaran was examined as



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P.W.2 and marked exhibits Ex.P1 to Ex.P6 and the appellant Insurance Company has examined one witness X.W.1 and has marked exhibits Ex.R1 to Ex.R6.

6.Perusal of records reveal that the deceased was employed as ambulance van driver at Muthu's Hospital at Coimbatore. Ambulance van driver has to necessarily drive the ambulance with considerable speed inorder to save the patients. In the present case, at the time of accident, the deceased was driving the ambulance van in Kovai to Neelambur L&T bye pass road from North to South. Inorder to prove the negligence aspect, the claimants examined P.W.2. Inorder to disprove the same, the appellant did not examine any independent eye witness. Without examining any independent eye witness, the appellant questioning the negligence aspect is not sustainable one.

7.Insofar as the quantum of compensation is concerned, the Tribunal on the basis of Ex.P6 – salary certificate of the deceased fixed a sum of Rs.17,000/- per month as the notional income of the deceased, which need not be interfered with. In the opinion of this Court, the Tribunal after considering all the factual aspects, awarded



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compensation which is just and reasonable and the same warrants no interference.

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8.The civil miscellaneous appeal is dismissed. The judgment and decree dated 01.08.2023 passed by the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur, in M.C.O.P.No.833 of 2018, is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

**07.01.2025**

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

To

1.The Motor Accidents Claims Tribunal,  
Principal District Judge, Perambalur.



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**M.DHANDAPANI,J.**  
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