IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 20.09.2016

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A. No.2132 of 2016
and CMP No.15389 of 2016

The Oriental Insurance Co. Ltd.,
Sub Govindam Building,
Imperial Road, Cuddalore. .. Appellant/2nd Respondent

Vs.

1. S.Uma Maheswari
2. G.Shanmugham ..1&2 Respondent/Petitioner
3. M.Ashok Kumar ..3rd Respondent/1st Respondent

Prayer: Appeal under Section 173 of the Motor Vehicles Act, 1988 against the Decree and Judgment passed by the Motor Accidents Claims Tribunal (Special Subordinate Court), Cuddalore, in MCOP No.2537 of 2009 dated 29.10.2013.

For Appellant : Mr.N.Vijayaraghavan

JUDGMENT
(Order of the Court was made by S.MANIKUMAR, J.)

Being aggrieved by the quantum of compensation of Rs.41,40,000/- with interest at the rate of 7.5% from the date of claim till deposit, Oriental Insurance Company Limited, is on appeal.

2. At the time when the instant appeal is taken up for hearing Mr.N.Vijayaraghavan, learned counsel for the Oriental Insurance Company, the appellant herein submitted that the only challenge in the appeal is to the correctness of '17' multiplier, applied for computation of loss of contribution to the family. He further submitted that the compensation awarded under the other heads is not disputed. At the time of the accident, deceased was a spinster aged 29 years. The tribunal applied '17' multiplier. Challenge to the said multiplier is on the grounds that the tribunal ought to have taken into consideration the age applicable to the claimant's parents.

3. The said contention is no longer tenable in view of the recent judgment of the Supreme Court in Munna Lal Jain and

Another Vs. Vipin Kumar Sharma and Others, reported in (2015) 6 SCC 347, wherein the Hon'ble Apex Court at paragraph Nos.11 and 12, held as follows.

> "11. The remaining question is only on multiplier. The High Court following Santosh Devi (2012 (6) SCC 421), has taken 13 as the multiplier. Whether the multiplier should depend on the age of the dependants or that of the deceased, has been hanging fire for sometime; but that has been given a quietus by another three-Judge Bench decision in Reshma Kumari (2013 (9) SCC 65). It was held that the multiplier is to be used with reference to the age of the deceased. One reason appears to be that there is certainty with regard to the age of the deceased but as far as that of dependants is concerned, there will always be room for dispute as to whether the age of the eldest or youngest or even the average, etc.,is to be taken. To quote:
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> > 36. In Sarla Verma,(2009 (6) SCC 121), this Court has endeavoured to simplify the otherwise complex exercise of assessment of loss of dependency and determination of compensation in a claim made under Section 166. It has been rightly stated in Sarla Verma that the claimants in case of death claim for the purposes of compensation must establish (a) age of the deceased; (b) income of the deceased; and (c) the number of dependants. To arrive at the loss of dependency, the Tribunal must consider (i) additions/deductions to be made for arriving at the income; (ii) the deductions to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference to the age of the deceased. We do not think it is necessary for us to revisit the law on the point as we are in full agreement with the view in Sarla Verma."
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> 12. In Sarla Verma, at paragraph-19, a two-Judge Bench dealt with this aspect in Step 2. To quote:
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> > "19. xxx xxx xxx Step 2 (Ascertaining the multiplier) Having regard to the age of the deceased and period of active career, the appropriate multiplier should be selected. This does not mean ascertaining the number of years he would have lived or worked but for the accident. Having regard to several imponderables in life and economic factors, a table of multipliers with reference to the age has been identified by this Court. The multiplier should be chosen from the said table with reference to the age of the deceased."

4. Following the abovesaid decision, quantum of compensation is confirmed and the instant Civil Miscellaneous Appeal deserves to be dismissed Accordingly, dismissed. No Costs.

5. Consequent to the dismissal of the appeal, the appellant-Insurance Company, is directed to deposit the entire award amount with proportionate accrued interests and costs, less the amount already deposited, to the credit of MCOP No.2537 of 2009, on the file of the Motor Accidents Claims Tribunal (Special Subordinate Court), Cuddalore, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents/claimants are permitted to withdraw the same, by making necessary applications before the Tribunal. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Asst.Registrar (CS V )

/true copy/

Sub Asst. Registrar

To
1. Motor Accidents Claims Tribunal,
Special Subordinate Court, Cuddalore.

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

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