IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.150 of 2017
and C.M.P.No.1030 of 2017

M/s.Shriram General Insurance
Company Limited,
E-8, RIICO Industrial Area,
Sitapura, Jaipur,
Rajasthan - 302 022. ... Appellant / 2nd Respondent

versus

1. G.Suresh Kumar ... 1st respondent/Petitioner

2. K.Srinivasan ... 2nd respondent/1st respondent
(R2 remained ex parte
before the Tribunal)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.11.2012 made in M.C.O.P.No.425 of 2010, on the file of the Motor Accident Claims Tribunal, III Additional District Court, Poonamallee.

For Appellant : Mr.B.Murugavel

JUDGMENT

In respect of death of one V.Ganapathi Raman, aged about 72 years, a retired Assistant Account Officer, getting the pension of Rs.13,764/- per month, who died in an accident on 15.04.2010, his son filed a claim petition in M.C.O.P.No.425 of 2010, on the file of the Motor Accident Claims Tribunal, III Additional District Court, Poonamallee, claiming compensation of Rs.10,00,000/-.

2. As against the claim made, the Tribunal, on considering the oral and documentary evidence, awarded a sum of Rs.6,05,240/- as compensation, payable by the Insurance Company along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.

3. Challenging the quantum of compensation as excessive, the Insurance Company has filed this appeal.

4. The learned counsel appearing for the appellant Insurance Company submits that the Tribunal failed to consider the fact that the claimant, who is aged more than 41 years, is having separate source of income and hence, he cannot be construed as dependent on the deceased; the daughter of the deceased has settled in USA after her marriage, hence, she is also not dependent on the deceased. Therefore, the compensation awarded towards loss of income is not sustainable. It is further submitted that the compensation awarded by the Tribunal is excessive. Therefore, the amount has to be reduced.

5. A perusal of the order passed by the Tribunal reveals that the Tribunal, based on documentary evidence, has fixed the age of the deceased as 72 years. Based on Ex.P5-Statement of Bank account, which shows the deceased was getting monthly pension of Rs.14,632/-, the Tribunal fixed the monthly income of the deceased at Rs.14,631/- and deducting 1/3rd towards personal expenses and adopting the multiplier of 5, loss of dependency has been quantified at Rs.5,85,240/-; awarding Rs.10,000/- towards funeral expenses and Rs.10,000/- towards loss of love and affection, the total compensation has been quantified at Rs.6,05,240/-"

6. The above quantification of the Tribunal cannot be said to be excessive. Further, it is to be pointed out that under the head loss of love and affection and funeral expenses, the Tribunal has awarded amounts, which are very meagre and, therefore, the award of compensation cannot be said to be excessive and, therefore, does not warrant any interference.

7. Though contention has been raised by the learned counsel for the appellant that the son and daughter of the deceased having their own source of income and, therefore, they cannot be termed as dependent on the deceased and, therefore, the compensation towards loss of dependency is erroneous, the said contention does not deserve acceptance. Dependency is not assessed based on the earnings of the individual, rather it is assessed based on the closeness shared amongst the family members. A father always supports his children, even if they are placed in a very high pedestal. Giving by the father and receiving by his children shows the mutual affection between the father and his children. Even if the children of the deceased are placed in any high position, they are entitled to receive the compensation. But for the untimely death of the deceased, he would have definitely received pension for many more years and the said amount would naturally enure to the benefit of his children. The status as legal representatives, who would suffer for loss of benefit accruing to the estate is entitled to compensation. In such view of the matter, the contention of the learned counsel that the children of the deceased being well

placed and not dependent on his income and, therefore, the loss of dependency quantified by the Tribunal is unsustainable deserves to be rejected.

8. The legal heir certificate has also been placed on record and further, Ex.P-6, No Objection Certificate of the sister has been filed in and by which the sister has given her no objection for the entire compensation to be awarded to the 1st respondent herein. Considering the same, the Tribunal has awarded the compensation in favour of the claimant. The findings rendered by the Tribunal are based on reasons and cannot be said to be unreasonable or unjustified. Therefore, this Court is of the considered view that the award passed by the Tribunal deserves to be confirmed.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 30.11.2012 passed in M.C.O.P.No.425 of 2010, by the Motor Accident Claims Tribunal, III Additional District Court, Poonamallee. No costs. Consequently, connected miscellaneous petition is closed.

10. The Insurance Company is directed to deposit the entire amount of compensation as awarded by the Tribunal, less the amount, if any, already deposited, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the same directly to the Bank Account of the claimant through RTGS within a period of two weeks thereafter.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

ogy/GLN

To

1. The Motor Accident Claims Tribunal,
   III Additional District Court,
   Poonamallee.

+1 CC to Mr.B.Murugavel, advocate sr 5807.

C.M.A.No.150 of 2017

GP(CO)
SP(27/04/2018)