IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2017

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA
C.M.A.No.2765 of 2017
and
C.M.P. No.15692 of 2017

Bajaj Alliance General
Insurance Company Limited
17/2012, Bishop Road,
Puthur,
Trichy - 620 017. .. Appellant/2nd Respondent

Versus

1. Jegathambal
2. Saminathan
3. Chithambaram
4. Selvamani
5. Elaiyaraja ..Respondents 1 to 5/Petitioners 1 to 5
6. Kumar .. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act,1988 against the decree and Judgment dated 18.11.2016 in MCOP No.110 of 2016 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate) at Ariyalur.

For Appellant : Mrs.R.Sree Vidhya

JUDGMENT

This appeal is filed by the Insurance company, challenging the quantum of compensation.

2. In respect of death of deceased Chinnappa, who was aged 60, an agricultural coolie, earning a sum of Rs.4,500/-, who met with an accident on 06.12.2007 and died later, the legal representatives have filed the claim petition for compensation claiming a sum of Rs.10,00,000/-

3. The Legal representatives are wife aged 56, son aged 33, P3 son aged 23, P4 son aged 19, and P5 son aged 21. The Tribunal has quantified the compensation by taking the monthly income at Rs.4,500/- and adopting multiplier of 9 which is

based upon the reported decision in the Sarla Verma case. The formula adopted is Rs.4500 x 12 x 9 = Rs.4,86,000/-.

4. Relying upon the Three Judge Bench of the Hon'ble Supreme Court in Reshma Kumari deduction of 1/4th towards personal expenses of the deceased have been made, even though the dependants are 5 in No. Deducting a sum of Rs.1,21,500/-, the Loss of dependency has been quantified at Rs.3,64,500/-

5. Relying upon the decision reported in Rajesh versus Rajbir singh reported in (2013) 9 SC 54, the wife is held entitled to a sum of Rs.1,00,000/- towards loss of estate and Rs.1,00,000/- towards loss of consortium. Similarly, a sum of Rs.1,00,000/- to each of the sons and a sum of Rs.50,000/- to each of the parents towards love and affection has been quantified. A sum of Rs.25,000/- has been awarded towards funeral expenses relying upon the decision in Puttamma versus K.L. Narayana Reddy 2013 (8) Supreme 795.

6. The main contention raised by the learned counsel for the appellant is that the deceased was aged more than 65 and therefore the multiplier adopted is not correct. This contention in para 3 has no basis. In the claim petition, the age is stated as 60. In the post-mortem certificate also the age noted is 60. In respect of the age group 56 to 60 the multiplier is only 9. Therefore, the age as fixed by the Tribunal is correct and the contention raised with regard to fixing of multiplier, by the insurance company has no basis and therefore it has to be rejected.

7. It is also contended that the amount of loss of love and affection to each of the claimants is very high and the award under loss to estate also has to be set aside. The loss of love and affection to each of the claimants has been awarded at Rs.40,000/- each (Rs.40,000 x 5) cannot be said to be excessive.

8. The next contention of the learned counsel for the appellant is that when the sons and daughters have attained majority the deduction towards personal expenses should have been made as 1/3rd and not 1/4th as done by the Tribunal. This contention is not correct and the Tribunal relying upon the judgment in Reshma Kumari has ordered deduction of 1/4th towards personal expenses. When there are large number of children, the natural tendency will be to spend less towards personal expenses. Therefore, deduction of 1/4th is justified.

9. The loss of consortium and loss of estate have been awarded relying upon the following judgments :-

Rajesh Vs. Rajbir Singh (2013) 9 SCC 54

July Kuruvila and others Vs. Kunjujamma Mohan and others (2013 (9) SCC 166.

Kalpanaraj and others Vs. Tamil Nadu State Transport Corporation (2014 (5) SCALE 479.

Kala Devi and others Vs. Bhagwan Das Chauhan and others (2015 (2) SCC 771) and

Asha Verman and others Vs. Maharaj and others (2015 (1) TANMAC 465 (SC).

10. Thus it is clear that the award under all the heads are reasonable and it does not require any interference. Hence, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

11. The appellant / Insurance company is directed to deposit the entire award amount, along with interest and costs as ordered by the Tribunal, less the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimants 1 to 5 through RTGS within a period of two weeks thereafter, as per the ratio of apportionment made by the Claims Tribunal.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

vsi2 / GLN

To

1. Motor Accident Claims Tribunal
(Chief Judicial Magistrate) at Ariyalur.

2. The Section Officer,
V.R. Section,
High Court, Madras - 104.

+1 CC to Ms.R. Sreevidya, Advocate sr 67972.

C.M.A.No.2765 of 2017

SP(28/02/2018)