IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.06.2017

CORAM

The Honourable **Mr.Justice S.Manikumar**
and
The Honourable **Mr.Justice G.R.Swaminathan**

C.M.A. Nos.1925 and 1926 of 2017
and
C.M.P. No.10411 of 2017

C.M.A. No.1925 of 2017

Shriram General Insurance Co. Ltd.
No.66, City Centre Complex
II Floor, Thirumala Pillai Road
T.Nagar, Chennai - 17 .. Appellant

Vs.

1.Venkatachalam
2.Rani
3.Ravindhran
4.Anandhi
5.A.Pandian .. Respondents

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 23.12.2014, passed in M.C.O.P. No.4546 of 2012, by the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr.S.Dhakshnamoorthy

For Respondents : Mr.F.Terry Chellaraja for R1 to R4

C.M.A. No.1926 of 2017

1.Venkatachalam
2.Rani
3.Ravindhran
4.Anandhi .. Appellants

Vs.

1.A.Pandian

2.Shriram General Insurance Co. Ltd.
No.66, City Centre Complex
II Floor, Thirumala Pillai Road
T.Nagar, Chennai - 17 .. Respondents

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 23.12.2014, passed in M.C.O.P. No.4546 of 2012, by the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

For Appellants : Mr.F.Terry Chellaraja

For Respondents : Mr.S.Dhakshnamoorthy for R1

COMMON JUDGMENT
(Made by S.MANIKUMAR, J.)

In the accident, which occurred on 28.02.2012, a 32 year old bachelor and claimed to be a driver and agricultural coolie employed in Eicher Tractors (A unit of TAFE Motors & Tractors Limited), died. Parents, brother and sister, joined together and filed M.C.O.P. No.4546 of 2012 on the file of the Motor Accident Claims Tribunal (II Court of Small Causes), Chennai, claiming compensation of Rs.40,00,000/- under various heads.

2. Shriram General Insurance Co. Ltd., insurer of Volvo bus bearing Registration No.TN-28 AK-9320, defended the claim.

3. On evaluation of pleadings and evidence, the Tribunal fixed negligence on the driver of the above said bus, and by accepting the avocation of the deceased, fixed the monthly income of the deceased as Rs.7,000/- and quantified the compensation as Rs.12,33,000/- with interest, at the rate of 7.5% per annum from the date of claim till deposit as hereunder:

Loss of contribution to family	: Rs.10,08,000/-
Funeral Expenses	: Rs. 25,000/-
Love and affection	: Rs. 2,00,000/-
Total	: Rs.12,33,000/-

4. Not satisfied with the quantum of compensation, legal representatives have filed C.M.A.No.1926 of 2017, contending inter alia that, when the avocation of the deceased is proved by Ex.P7 - copy of driving licence, and when the accident occurred, when he was on the wheels of the vehicle, and taking note of the number of the surviving dependants, parents aged about 59 and 48 years respectively, year of the accident 2012, consumer price index, inflation and such other economic factors, expenditure likely to be incurred to provide food, shelter and for basic amenities, the Tribunal ought to have fixed the

monthly income of the deceased as Rs.25,000/-. Added further, Mr.F.Terry Chellaraja, learned counsel for the appellants/claimants in C.M.A.No.1926 of 2017, submitted that the Tribunal has failed to award compensation under the head future prospects.

5. To reduce the quantum of compensation, insurance company has filed C.M.A.No.1925 of 2017. Mr.R.Dhakshnamoorthy, learned counsel for the insurance company/appellant in C.M.A. No.1925 of 2017, submitted that quantum of compensation of award under various heads on the higher side. As both the appeals revolve round quantum of compensation, they are taken up together and disposed of by this common judgment.

We have heard the learned counsel for the parties and perused the material available on record.

6. Contention of the learned counsel for the claimants/legal representatives of the deceased is accepted. Monthly income is fixed as Rs.10,000/-. As regard addition of 50% of the income under the head future prospects, following the decisions of the Hon'ble Supreme Court in ***Santhosh Devi v. National Insurance Co. Ltd.,*** reported in ***2012 (6) SCC 421*** and ***Reshmakumari and others v. Madhanmohan and***

another reported in ***2012 (2) CTC 680***, we deem it fit to add 50% under the head future prospects for computation of loss of contribution to the family. Income taken for the purpose of computation is Rs.15,000/-. At the time of accident, age of the deceased was 32 years. As per the decision of the Hon'ble Supreme Court in ***Sarla Verma (smt) and others vs. Delhi Transport Corporation and Another*** reported in ***(2009) 6 SCC 121,*** 16 is the proper multiplier. At the time of accident, the deceased was a bachelor. Applying the above said judgment, 50% of the same has to be deducted towards the personal and living expenses of the deceased. Adopting the above procedure, loss of contribution to the family is worked out as Rs.14,40,000/- (Rs.15,000/- x 12 x 16 x 1/2).

7. Compensation of Rs.2,00,000/- awarded under the head loss of love and affection to parents at the rate of Rs.1,00,000/- each, is modified and we are inclined to award Rs.50,000/- each to the parents, brother and sister of the deceased under the said head. Compensation of Rs.25,000/- awarded under the head funeral expenses which is in consonance with ***Rajesh vs. Rajbir Singh,*** reported in ***2013 (2) TN MAC 55 (SC) = 2013 (9) SCC 54.***

8. The Tribunal has not awarded any amount for transportation,

conventional damages and loss of estate. Considering the facts and circumstances, we are inclined to award a sum of Rs.10,000/- for transportation, Rs.2,000/ for conventional damages to clothes and articles and Rs.10,000/- under the head loss of estate.

9. In view of the reworking, compensation due and payable to the legal representatives of the deceased Velu, works out to Rs.16,87,000/-. Tribunal has awarded Rs.12,33,000/-. There is enhancement of Rs.4,54,000/-. Details of compensation awarded as below:

Loss of contribution to family	: Rs.14,40,000/-
Love and affection	: Rs. 2,00,000/-
Funeral Expenses	: Rs. 25,000/-
Transportation charges	: Rs. 10,000/-
Loss of estate	: Rs. 10,000/-
Damage to clothes	: Rs. 2,000/-
Total	: Rs.16,87,000/-

10. Perusal of the award shows that the Tribunal has not apportioned any compensation to brother and sister of the deceased. Enhanced amount of Rs.4,54,000/- is apportioned in equal proportionate to the brother and sister, respectively, with interest at the rate of 7.5% per annum from the date of claim till realisation.

11. C.M.A.No.1926 of 2017 filed by the claimants/legal representatives, is partly allowed. C.M.A. No.1925 of 2017 filed by the

insurance company, is dismissed. However, there shall be no order as to cost.

12. Learned counsel for the parties submitted that statutory deposit of Rs.25,000/- alone has been made when appeal in CMASR stage was filed. Shriram General Insurance Company Ltd, is directed to deposit the amount now determined by this court, viz. Rs.16,87,000/- with interest at the rate of 7.5% per annum from the date of claim till realisation and cost awarded by the Tribunal, less the statutory deposit of Rs.25,000/- to the credit of M.C.O.P. No.4546 of 2012 on the file of the Motor Accident Claims Tribunal (II Court of Small Causes), Chennai, within a period of four weeks. On such deposit, claimants/legal representatives of the deceased, are permitted to withdraw the share apportioned to them with proportionate interest by making necessary applications.

(S.M.K., J) (G.R.S., J)

29.06.2017

Index : Yes/No
Internet : Yes/No
asr

To

The Motor Accident Claims Tribunal

S.MANIKUMAR, J.
and
G.R.SWAMINATHAN, J.

Asr

C.M.A.Nos.1925 and 1926 of 2017

29/06/2017