$~R-570-571 *(common order)*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 27th November, 2017

\+ MAC.APP. 892/2012

SHRIRAM GENERAL INSURANCE CO. LTD...... Appellant
Through: Mr. Priyadarsi Acharya, Advocate

Versus

PRITAM SINGH & ORS. ..... Respondents

Through: Mr. Anshuman Bal, Advocate for R-1 & R-2.

\+ MAC.APP. 882/2016

PRITAM SINGH & ANR. ..... Appellants

Through: Mr. Anshuman Bal, Advocate

Versus

SHRIRAM GENERAL INSURANCE CO. LTD. & ORS. ...... Respondents
Through: Mr. Priyadarsi Acharya, Advocate

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. By judgment dated 27.02.2012, the motor accident claims Tribunal (tribunal) decided accident claim case (Suit No.511/11) which had been instituted on 02.09.2009 by the parents of deceased Vijender Singh (appellants in MAC APP.882/2016), they being first &

second respondents in MAC APP.892/2012 (collectively, the claimants), the death having occurred in a motor vehicular accident that had been caused on 07.06.2009 due to negligent driving of tanker bearing registration No.HR-55D-7506, which was admittedly insured against third party risk for the period in question with Shriram General Insurance Company Limited (insurer), (appellant in MAC APP.892/2012).

2. The tribunal granted compensation in the total sum of Rs.8,93,280/-, directing the insurer to pay with interest @ 7.5% per annum. However, on an application of the insurance company, the said award was modified by order dated 12.04.2012 whereby compensation in the total sum of Rs.4,61,640/- was awarded which included Rs.4,31,640/- on account of loss of dependency and Rs.10,000/- each towards funeral expenses, loss of estate and loss of love and affection.

3. The deceased was admittedly a bachelor, aged 21 years on the date of death. No clear proof as to his income was mustered and, thus, the tribunal assumed Rs.4,360/- as the notional income, it being the minimum wages payable during the relevant period. It added 50% towards future prospects of income, made deduction of one-half and applied the multiplier of 11, according to the age of the mother of the deceased while calculating the loss of dependency.

4. Both the insurer and the claimants are in appeal, the former taking exception to inclusion of future prospects to the extent of 50% and the latter submitting that the multiplier should have been adopted

as per the age of the deceased and that the non-pecuniary damages and rate of interest levied are inadequate.

5. The contentions of both sides are found to be correct. In view of the ruling of the Constitution Bench of the Supreme Court rendered on 31.10.2017 in *SLP (C) 25590/2014, National Insurance Company Ltd. Vs. Pranay Sethi and Ors.,* and *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121*, the multiplier of 18 will have to be applied having regard to the age of the deceased at the time of death and future prospects will need to be restricted to 40%. Thus, the loss of dependency is re-calculated as (4360 x 140/100 ÷ 2 x 12 x 18] Rs.6,59,232/- rounded off to Rs.6,60,000/-. In addition to this, Rs.15,000/- each towards loss of love and affection and funeral expenses are added.

6. Thus, the total compensation comes to (6,60,000/- + 15,000/- + 15,000/-) Rs.6,90,000/- (Rupees Six Lac and Ninety Thousand Only).

7. The award is modified accordingly.

8. Following the consistent view taken by this Court, the rate of interest is increased to 9% per annum from the date of filing of the petition till realization. [see judgment dated 22.02.2016 in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors*.].

9. By order dated 17.08.2012 read with order 08.02.2013 passed in MAC APP.892/2012, the insurance company had been directed to deposit the entire awarded amount with upto date interest and out of the said deposit, fifty per cent (50%) was directed to be released to the claimants.

10. Since the award stands increased, the entire balance lying in deposit shall now be released to the claimants in terms of the impugned award. The enhanced portion of the award with corresponding interest shall be deposited by the insurance company with the tribunal within thirty days (30 days) whereupon it shall be released to the second claimant Smt. Kripal Kaur (mother) only in the form of interest bearing fixed deposit receipt to be taken out from a nationalized bank for a period of seven years with right to draw periodic interest.

11. The statutory deposit shall be refunded to the insurer upon showing proof of satisfaction of award.

12. Both the appeals stand disposed of in above terms.

13. Pending applications also stand disposed of.

R.K.GAUBA, J.

NOVEMBER 27, 2017
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