
(2013) 07 KAR CK 0084

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 3714 of 2010 (MV)

A. Shivagami and Others

APPELLANT

Vs

Stella Mary and Reliance General Insurance Co. Ltd.

RESPONDENT

Date of Decision : 10-07-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2013) 07 KAR CK 0084

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : A. Sreenivasaiyah, for the Appellant; R. Raghu, for Sri. H.S. Lingaraj, for R. 2, for the Respondent

Final Decision : Partly Allowed

Judgement

B. Sreenivase Gowda, J.—This appeal is by the claimant seeking enhancement of compensation awarded by the Tribunal. Though the matter is listed in the orders, with the consent of learned Counsel appearing for the parties, it is taken up for final disposal.

2. For the sake of convenience parties are referred to as they are referred to in the claim petition before the Tribunal.

3. As there is no dispute regarding death of Sri. Arlampalam in a motor traffic accident occurred on 23.11.2007 due to rash and negligent riding of motor cycle bearing registration No. KA-51-E-1628 by its rider and liability of the insurer of the said vehicle to pay compensation, the only point arises for consideration is:

Whether compensation awarded by the Tribunal is just and proper or does it call for enhancement?

4. Learned Counsel for the claimants submits that as per Ex. P 5 post mortem report the age of the deceased as on the date of the accident was 40.

5. Whereas learned Counsel for the insurer submits in the evidence of PW 2 a

technical officer of Sericulture Department under whom deceased was working as a technician has stated deceased had been working in the said department for the last 25 years. He also submits as per the age mentioned in the ration card deceased was 42 years as on the date of the accident. He further submits that the wife of the deceased in her cross examination has stated her deceased husband was 42 years as on the date of the accident. Lastly he submits that in the claim petition the claimants have claimed total compensation of Rupees eight lakhs and enhancement of compensation may be restricted to their claim only.

6. It is well settled principle of law that Courts are required to award just compensation irrespective of the amount claimed by the claimants and therefore there is no merit in the contention of the insurer that enhancement of compensation should be restricted to Rs. 8,00,000 claimed by the claimants.

7. The claimants have summoned the Technical Officer of Sericulture Department in which deceased was working as a technician, but they have not summoned him to appear along with documents relating to date of birth of the deceased. The material on record discloses the deceased was between the age group of 41 to 45. Therefore multiplier applicable to his age group is 14.

8. The claim petition is filed by wife and three unmarried daughters and parents of the deceased seeking compensation u/s 166 of the Motor Vehicles Act. The claimants in support of their contention that deceased by working as technician as full time contingent worker in Sericulture department, Govt. of Andhra Pradesh and getting salary Rs. 5,336/- p.m. have examined the first claimant wife of the deceased as PW 1 and have also produced Ex. P7, Ex. P 11 Ex. P 15 and Ex. P 16 disclose that deceased was working as Contingent full time worker in Sericulture department, Govt. of Andhra Pradesh and getting salary of Rs. 5,336/- p.m. Rs. 60/- towards profession tax has to be deducted from the said sum and monthly income comes to Rs. 5,276/-. To that 30% has to be added towards future prospects as per the judgment of the Apex Court in the case of Rajesh and Others Vs. Rajbir Singh and Others, If so, total income of the deceased comes to Rs. 6,858.80 p.m. rounded off to Rs. 6,858/-. Claimants are more than four in number. Therefore, the Tribunal has rightly deducted 1/4th of his income towards his personal expenses and 3/4th as his contribution to family. Accordingly loss of dependency works out to Rs. 8,64,108/- (Rs. 6,858/- x 3/4 x 12 x 14) and it is awarded as against Rs. 7,20,360/- awarded by the Tribunal under this head.

9. In addition to that a sum of Rs. 50,000/- is awarded under various conventional heads as against Rs. 40,825/- awarded by the Tribunal.

10. Thus the claimants are entitled for total compensation of Rs. 9,14,108/- with interest at 6% p.a. from the date of claim petition till the date of realization.

11. Accordingly the appeal is allowed in part and the Judgment and award of the Tribunal is modified to the extent stated herein above. The claimants are entitled for additional compensation of Rs. 1,52,920/- rounded off to Rs. 1,53,000/- with

interest at 6% p.a. from the date of claim petition till the date of realization. The Insurance Company is directed to deposit the additional compensation amount with interest, within two months from the date of receipt of a copy of this judgment, from which Rs. 75,000/- with proportionate interest is ordered to be deposited in FD in the name of the first claimant, Rs. 25,000/- each with proportionate interest in the name of 2nd, 3rd and 4th claimants in any nationalized/scheduled Bank or post office for a period of three years, with a right of option to withdraw interest periodically and the remaining amount is ordered to be released in favour of 1st and 6th claimants. The Tribunal is directed to issue F.D.slip to the claimants to enable them to withdraw the amount on its maturity without approaching the Tribunal once again. The concerned bank is also directed to release the F.D. amount on its maturity without insisting any order from the Tribunal.

No order as to costs.