

(2015) 09 KAR CK 0029
In the Karnataka High Court
Case No : MFA No. 101345/2014 (MV)

Balasaheb Babu Patil and Others

APPELLANT

Vs

Vikas Vishwanath Pawar and Others

RESPONDENT

Date of Decision : 10-09-2015

Acts Referred:

Citation : (2015) 09 KAR CK 0029

Hon'ble Judges : S. Sujatha, J.

Bench : Single Bench

Advocate : Gurukumar V.A., Advocate, for the Appellant

Final Decision : Partly Allowed

Judgement

S. Sujatha, J.—Heard the learned counsel appearing for the parties.

2. It transpires that on 18.8.2012 the deceased Gopal who was the pillion rider on the Hero Honda Motor Cycle bearing No. KA-22-EJ-4743 was coming towards Belgaum. When they came near the land of Anant Gavadu Patil at 6.10 PM, the rider of the Hero Honda Motor Cycle bearing No. KA-22-EJ-2788 came from opposite direction in high speed and in rash and negligent manner collided with the motor cycle in which deceased Gopal was travelling. Due to the impact, the deceased who was the pillion rider sustained grievous injuries to the head and vital parts of the body and died on the spot.

3. The Tribunal on the claim petition filed by the claimants awarded compensation of Rs. 4,65,000/- with interest @ 6% p.a. Being dissatisfied, the claimants are before this Court.

4. Learned counsel appearing for the appellants contended that the Tribunal has not properly appreciated the evidence placed on record. The deceased was aged 20 years, hale and healthy, young and energetic, doing agricultural work and was earning Rs. 5000/- per month. The Tribunal computed the income at Rs. 4500/- per month which is on the lower side. However, the Tribunal has not awarded

future prospects. The multiplier is determined by taking the age of the younger parent of the deceased contrary to the Judgment of the Apex Court in State of Uttar Pradesh Vs. Arvind Kumar Srivastava, .

5. On the contrary, learned counsel appearing for the insurance company justified the award passed by the Tribunal. It is contended that the Tribunal having considered the claim of the claimants, has rightly awarded the compensation which does not call for any enhancement in this appeal. If the same is enhanced, it would be a largesse and only source of profit to the claimants against the avowed objects of the Act and Rules.

6. Considering the rival submissions, it is clear that the deceased was aged 20 years at the time of occurrence of the accident. He owned lands as per Ex. P.11, the record of rights of land produced by the claimants. In view of the income which is generally determined in similar cases would be at Rs. 6500/- per month, in the accident that occurred in the year 2012. Taking this as the guiding factor, the income of the deceased would be safely determined at Rs. 5000/- per month as claimed by the claimants. Normally this Court would have awarded 30% towards future prospects, however, in the facts of this case where the monthly income of the deceased is restricted to Rs. 5000/- as claimed, in similar circumstances, the monthly income determined consistently by this Court and Lok Adalath for the accident that occurred in the year 2012 is Rs. 6500/- and another factor which has to be significantly noticed is that the deceased is a bachelor, 50% has to be deducted towards his personal expenses as per the Judgment of the Apex Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , the future prospects requires to be awarded at 50%. One more aspect to be considered is the Tribunal has taken the age of younger parent to adopt the multiplier necessarily requires to be modified in view of the law laid down in Munna Lal Jain's case cited supra.

7. Accordingly, the appeal is partly allowed. The judgment and award passed by the MACT, Belgaum in MVC No. 2450/2012 dated 13.01.2014 is modified. The compensation is enhanced by Rs. 4,05,000/- which shall carry interest @ 6% p.a. from the date of petition till realisation. The insurance company/respondent No. 2 shall deposit the amount within six weeks from the date of receipt of the judgment. Claimants are at liberty to withdraw the same.