

(2016) 03 KAR CK 0056
In the Karnataka High Court
Case No : MFA No. 200284 of 2016 (MV).

Branch Manager, Oriental Insurance Co. Ltd., Hyderabad	APPELLANT
Vs	
Narayan S/o. Babanna Dandin and Others	RESPONDENT

Date of Decision : 03-03-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 168

Citation : (2016) AAC 1193

Hon'ble Judges : Mrs. S. Sujatha, J.

Bench : Single Bench

Advocate : S. S. Aspal, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

Mrs. S. Sujatha, J. - This appeal is directed against the award passed by the Motor Accident Claims Tribunal, Bidar.

2. Briefly stated the facts are :

The deceased-Babanna aged about 6, met with an accident on 8-11-2013 and succumbed to the injuries sustained in the accident. The claimants being the parents of the deceased filed claim petition, claiming global compensation of Rs. 7,50,000/- with interest. The Tribunal after analysing the evidence placed on record, following the judgment of this Court in the case of Sagar (deceased) by LRs. v. Suresh in MFA No. 22068 of 2011, D/- 6-11-2013, awarded compensation of Rs. 5,00,000/-. Being aggrieved by the said award, the insurer is before this Court.

3. The learned counsel appearing for the appellant-Insurer contends that the deceased was aged 6 years, the Tribunal ought to have considered the age of the younger parent to apply the multiplier, to compute the quantum of compensation. Awarding compensation of Rs. 5,00,000/- is contrary to the principles of law laid down by this Court as well as by the Apex Court. In support of his contention, learned counsel placed reliance on the judgment of this Court

in the case of Anil Reddy v. The Superintendent of Police in MFA No. 201647 of 2014, D/- 18-3-2015.

4. I have given my thoughtful consideration to the arguments advanced by the learned counsel appearing for the appellant and perused the material on record, it is an admitted fact that the deceased Babanna died in the road traffic accident that occurred on 8-11-2013. The deceased was aged 6 years at the time of the accident. It is also an admitted fact that the claimants are the parents of the deceased. In view of the said admitted facts, the Tribunal following the judgment of this Court in Sagar's case (supra) has awarded the compensation of Rs. 4,50,000/- under the head of loss of dependency and further sum of Rs. 50,000/- under the conventional heads like love and affection, funeral expenses and obsequies ceremony etc. This Court in the case of Sagar (supra) has held thus :

"4. Learned counsel for the claimants-appellants places reliance on a judgment of this Court in MFA No. 23733 of 2010, D/- 27-9-2013 in the case of Basappa v. Sangappa wherein compensation of Rs. 5 lakhs was awarded for the death of a minor boy aged about 14 years. He has also placed reliance on the judgment in MFA No. 516 of 2008, D/- 13-3-2012 in the case of Arjun v. Kalmeshwar wherein Rs. 3,75,000/- has been awarded for the death of a four years boy in the accident. He has also referred the judgment in the case of Kishan Gopal v. Lala, 2013 AIR SCW 5037, wherein the Hon'ble Supreme Court has awarded compensation of Rs. 4,50,000/- and another Rs. 50,000/- under the conventional head. He also placed reliance on the Supreme Court judgment in the case of R. K. Malik v. Kiran Pal , (AIR 2009 SC 2506). Therefore, the learned counsel submits that the tribunal has committed an error in not awarding just compensation to the claimants as observed by this Court and Hon'ble Supreme Court in the judgments referred to supra and prays for awarding of just compensation. It is his further submission that in the case in hand, the deceased was age (sic) years at the time of accident. In the cases of this nature, it is difficult to assess the loss in pecuniary term and that the Motor Vehicles Act is also silent in providing any basis to award just compensation. Hence, this Court followed the other judgments of this Court also the judgments of the other High Courts and the Hon'ble Supreme Court for the purpose of awarding just and fair compensation. Under these circumstances, it is his submission that what has been held by the Hon'ble Supreme Court has to be followed in the facts and circumstances of this case.

5. Learned counsel for the respondent Insurance Company relied on the judgment of the Apex Court in the case of Kaushlya v. Shri Karan Arora, (AIR 2007 SC 1912) wherein at para 6 it is held as under:

"The Courts and Tribunals have duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be "just" compensation is a vexed question. There can be no golden rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon

the particular facts and circumstances, and attending peculiar or special feature, if any. Every method or mode adopted for assessing compensation has to be considered in the background of "just" compensation which is the pivotal consideration. Though by use of the expression "which appears to it to be just" a wide discretion is vested in the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression equitability, fairness and reasonableness, and non-arbitrary, if is not so it cannot be just."

6. A perusal of the judgment referred to above, makes it clear as to what would be the just compensation, no straight jacket formula would be prescribed for assessing just compensation which is a vexed question and it depends upon the facts and circumstances of each case. The Tribunal is vested with wide discretion and that has to be exercised with all reasonableness. The discretion exercised by the Tribunal considering the age of the minor child and the compensation awarded at Rs. 5,00,000/- placing reliance on the judgment of this Court cannot be found fault with.

7. In the case of Anil Reddy (supra) relied upon by the appellant, this Court has considered the age of the mother of the deceased to apply the multiplier in arriving at the loss of dependency. However, globally computing the compensation in the case of death of a minor is neither uncommon nor vitiated by law. In the circumstances, the judgment relied upon by the appellant is not applicable to the facts of the present case.

8. Accordingly, the appeal stands dismissed.

9. The amount in deposit shall be transmitted to the jurisdictional Tribunal and the claimants are at liberty to withdraw the same.

10. In view of disposal of main appeal, I.A.I/ 2016 does not survive for consideration and accordingly rejected.