(2016) 12 KAR CK 0015

In the Karnataka High Court

Case No : MFA No. 30715 of 2011(MV)

Branch Manager United India Insurance Co. Ltd. APPELLANT

Vs

Raghunath RESPONDENT

Date of Decision : 05-12-2016

Acts Referred:

Citation : (2016) 4 ACC 942

Hon'ble Judges : B.A. Patil, J.

Bench : Single Bench

Advocate : Notice, for the Respondent Nos. 1 to 3; Mr. Shivanand Patil, Advocate, for the Appellant; Notice to served, but unrepresented, for the Respondent No. 4

Final Decision : Dismissed

Judgement

B.A. Patil, J. - The present appeal is filed by the Insurance Company assailing the judgment and award dated 3.1.2011 passed by the Motor Accident Claims Tribunal, Bijapur in MVC No. 242/2008. By the impugned award, the Tribunal has awarded total compensation of Rs. 3,75,600 with interest at the rate of 6% per annum.

2. It was the case of the claimants-respondents herein before the Tribunal that on 13.3.2004 at about 1.00 a.m., the deceased was proceeding on his motorcycle bearing Regn. No. MH-13/Y-3147, when he came near Bhose Phata on Pandharpur-Miraj Road, a truck bearing Regn. No. MH-13/G-6428 came from opposite direction with high speed and in zigzag manner and dashed the motor cycle on which the deceased was proceeding and as a result of the said impact, the deceased sustained grievous injuries and subsequently, he succumbed to the said injuries. It was the further case of the claimants that the deceased was owning a pawn shop and was earning monthly income of Rs. 9,000. After hearing the parties and considering the material produced before it, as aforesaid the Tribunal has awarded total compensation of Rs. 3,75,600 under various heads, as against which, the appellant-Insurance Company is before this Court.

3. The contention of the learned Counsel for the appellant-Insurance Company is that the impugned award is not sustainable in law as the same is disproportionate, unreasonable and therefore the impugned award is liable to be set aside by this Court. It is his further contention that the Tribunal ought to have deducted 50% towards personal expenses of the deceased and ought not have deducted ?rd and therefore, the compensation awarded under the head ''loss of dependency'' is on the higher side and needs interference by this Court.

4. Per contra, the learned Counsel appearing on behalf of the claimants-respondents supported the impugned award contending that the Tribunal after considering the material evidence on record, has come to a right conclusion and therefore it does not warrant any interference by this Court. He has further contended that the appellant-Insurance Company has not made out any good grounds to allow the appeal and therefore prayed for dismissal of the appeal.

5. Since other issues are not urged and the appeal is filed only with regard to the quantum of compensation, I will not touch the other aspects of the matter. Keeping in view the contentions urged by both the parties and on perusal of the records, including the impugned judgment and award, it is clear that the Tribunal after taking notional income of the deceased at Rs. 2,700 per month since there are more than three dependents, after deducting ?rd towards his personal income, by taking Rs. 1,800 towards family contribution and after applying the multiplier of ''16'', has awarded Rs. 3,45,600 under the head Toss of dependency'' and Rs. 30,000 under other conventional heads.

6. Though the learned Counsel for the appellant-Insurance Company has contended that the Tribunal ought to have deducted 50% towards personal expenses of the deceased, as per the norms and the guidelines where there are more than three dependants, the deduction of ?rd towards personal expenses of the deceased as made by the Tribunal is just and proper. In that light, the contention raised by the learned Counsel for the appellant-Insurance Company does not hold any water.

7. In so far as the contention of the appellant that the award passed by the Tribunal is not just and proper with regard to assessment of the monthly income of the deceased is concerned, on perusal of the records it is dear that the accident had occurred in the year 2004. During the relevant year the notional income of the daily wager would be Rs. 4,500, which is the yardstick to be adopted in Lok Adalt settlements. Though there was no material produced before the Tribunal to show that the deceased was running a pawn shop and was earning Rs. 9,000 per month, the Tribunal has taken the notional income of Rs. 2,700, that too on lower side and has awarded the compensation towards loss of dependency. Under such circumstances, the contention raised on behalf of the appellant in this regard also fails.

At the outset, it is to he noticed that the claimants have not filed any appeal before this Court for enhancement of the compensation awarded by the Tribunal.

In view of the above, the present appeal is liable to be dismissed. Accordingly, the same stands dismissed.

The amount deposited if any, by the appellant-Insurance Company before this Court shall be transmitted to the Tribunal.

