

(2016) 03 KAR CK 0172
In the Karnataka High Court
Case No : MFA No. 100328 of 2016 (MV).

Divisional Manager, NWKRTC

APPELLANT

Vs

Mallappa Yallappa Konannavar and Others

RESPONDENT

Date of Decision : 11-03-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 168

Citation : (2016) AAC 1345

Hon'ble Judges : B. Manohar, J.

Bench : Single Bench

Advocate : Chandrashekhar M. Hosamani, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

B. Manohar, J. - The NWKRTC filed this appeal challenging the judgment and award dated 29-10-2015 made in MVC No. 1544/2014 passed by the Senior Civil Judge and Additional Motor Accident Claims Tribunal, Saundatti (hereinafter referred to as "the Tribunal" for short).

2. Son of respondents 1 and 2 herein and husband of respondent No. 3 one Ningappa was proceeding in the motor bike bearing registration No. KA-24/S-6765 towards Sangam Garments on 8-5-2014 at about 9.00 a.m., a KSRTC bus bearing registration No. KA-42/F-365 driven by its driver in a rash and negligent manner and dashed against the motor bike of Ningappa, from the rear side. Due to the impact, the rider of the motor bike fell down and sustained grievous injuries and subsequently, he succumbed to the same. The father, mother and wife of the deceased filed the claim petition contended that the deceased was as a Manager in the Sangam Garments, earning a sum of Rs. 15,000/- p.m. In view of death of the deceased, the family has lost the bread earner and sought for compensation of Rs. 25,00,000/-.

3. The appellant herein filed objections to the claim petition.

4. The Tribunal after considering the matter in detail held that due to the rash

and negligent driving of the KSRTC bus, the accident had occurred and the rider of the motor bike died. The actionable negligence is on the part of the driver of the bus. Though the claimants claim that the deceased was earning a sum of Rs. 15,000/- p.m., as a Manager in the Sangam Garments, no document has been produced to substantiate the same. In view of that, the Tribunal taking into consideration income of the deceased as Rs. 7,000/- p.m., deducting 7rd towards personal expenditure and applying multiplier of 18, since the deceased was aged about 24 years at the time of death, awarded a sum of Rs. 10,15,200/- towards loss of dependency. Since the wife has lost her husband at young age and lost the love and affection of her husband, the Tribunal has awarded a sum of Rs. 1,00,000/- towards loss of consortium and Rs. 50,000/- towards loss of love and affection, transportation of dead body and other expenditure. In all, a sum of Rs. 11,65,200/- was awarded by the Tribunal. The appellant-NWKRTC, being aggrieved by the quantum of compensation awarded by the Tribunal has filed this appeal mainly contending that the compensation awarded by the Tribunal taking the income of the deceased as Rs. 7,000/- p.m. is on higher side.

5. I have carefully considered the arguments addressed by the learned counsel for the parties and perused the impugned judgment and award, oral and documentary evidence.

6. The records clearly disclose that due to the rash and negligent driving of the offending bus, wherein the bus dashed against the motor bike of the deceased from the rear side, the accident occurred and the deceased died. The finding of the Tribunal with regard to actionable negligence on the part of the driver of the KSRTC bus has become final. The dispute is only with regard to quantum of compensation. Even in Lok Adalath, in the absence of necessary document regarding income, the income is being taken as Rs. 7,000/- during the relevant period. Hence, the Tribunal has rightly taken Rs. 7,000/- p.m. as income of the deceased in the absence of necessary documents with regard to income and applied the appropriate multiplier and further following the judgment of the Hon'ble Supreme Court in the case of Rajesh v. Rajbeer Singh, reported in 2014 ACJ 1565 held that the wife of the deceased is entitled to loss of consortium at Rs. 1,00,000/-. Hence, the compensation awarded by the Tribunal is in accordance with law. The appellant has not made out a case to interfere with the judgment and award passed by the Tribunal. Accordingly, the appeal is dismissed.