

(1987) 08 KAR CK 0051
In the Karnataka High Court
Case No : M.F.A. No. 1611 of 1985

General Manager

APPELLANT

Vs

Yellappa Dharmoji Kittur

RESPONDENT

Date of Decision : 12-08-1987

Acts Referred:

Citation : (1988) ACJ 556 : (1987) ILR (Kar) 3564

Hon'ble Judges : Venkatachaliah, J; Hiremath, J

Bench : Division Bench

Advocate : Ajit J. Gunjal, for the Appellant; Vishwanath S. Shettar, for the Respondent

Judgement

Venkatachaliah, J.—This appeal is by the Karnataka State Road Transport Corporation and is preferred against the Judgment and Award dated 29-1-1985, made in M.V.C. No. 239 of 1983, on the file of the Motor Accidents Claims Tribunal No. III, Belgaum, granting to the parents of the deceased boy, aged 14 years, a compensation of Rs.29000/-. The Tribunal, however, deducted therefrom the sum of Rs.2000/- paid earlier, ex-gratia, by the appellant.

2. The boy, a student of 8th standard died as a result of the injuries sustained in an accident that occurred on 30-12-1982 at Kanabargi. It is stated that the boy was about to board appellant's bus to return to his village nearby, after school. The case put-forward by the claimant, and accepted by the Tribunal, was that when the boy was about to board the bus, the bus made a sudden and unmingled start, as a result of which the boy fell-down and sustained injuries to which he later succumbed. Ex. P-5, the post mortem report reveals a crush injury of the rib-cage and a rupture of the diaphragm, which probabilise that he had been run over. The Tribunal did not accept the case of the appellant that the boy attempted to board a moving bus and brought this tragedy upon himself. So far as the quantum of compensation is concerned, the Tribunal estimated the loss of dependency at Rs.150/-per month and capitalised it on 15 years purchase. It also awarded a sum of Rs.3000/-towards what is called ""shock and agony". It

also awarded a sum of Rs.1000/- towards "funeral-expenses".

3. We have perused the award under appeal. The finding of the Tribunal that the boy died as a result of the negligence on the part of the driver of the bus is supportable on the evidence.

In regard to the size of the award, Sri. Gunjal says that both the multiplicand and the multiplier are inappropriately high and that, at all events, the award of Rs. 3000/- towards mental agony and pain is not a permissible award. It is no doubt true that there are certain inaccuracies of reasoning and approach in the award. The multiplier of 15 may not be appropriate if the age of the claimants which alone is the relevant factor is reckoned. But, these things cannot be weighed in golden scales. The award in this case might perhaps be a little generous. But that is not a ground to interfere. It is impossible to estimate the magnitude of the calamity that has befallen the parents. All the bright colours of their life are etched away by this tragedy. Death has such an inexorable quality that in estimating its consequences, one can do more than recognise the total ineptitude of any logical process on which estimates are based. Death is a negation of the logic of the living.

No amount of money can bring back to the hapless parents their dead son. It takes quite some time for the intensity and the utter finality of this loss to fully down on them. Law provides reparation only in the manner known to it, namely, making a reparation in financial terms. Niceties of calculation help us - up to a point. But certainly arithmetic fails to provide a solution which common-sense demands. It is in this area that a judge realises the impossibility of comparing life with nothingness or non-existence implicit in death. As one Judge asked; in a different context, "How could a Judge compare his experience of life and set it against his ignorance of death?"

4. It is no doubt true that in cases of very young children, no basis exists for estimating the future pecuniary benefits which the parents could be said to have lost by the death. The prospects of employment and of financial assistance, to the parents who look up to their dutiful and grateful children, are so remote in the future that any estimates tend to become mere speculative possibilities than reasonable probabilities. Such estimates of chances of future monetary contributions to the parents are pressed into extinction by multiple uncertainties and imponderables of the future. It is, therefore, that awards are made in such cases in merely conventional sums. By these tests no award can, in the case of very young children, be made for loss of future pecuniary benefits.

5. In such cases it, indeed, takes a hard heart to interfere. We decline to interfere. Awards in such cases were in the neighbourhood of Rs. 5000/- (See Government of India -v.-Jeevaraj Alva AIR 1970 Mys 13. There the death was in the year 1959. But, Rs 5000/- of the late fifties is at-least six times higher now. We, however, set aside the condition as to higher interest at 18% for default. In other respects the Award under appeal is left undisturbed.

Appeal disposed of accordingly.