

(2011) 03 KAR CK 0166
In the Karnataka High Court
Case No : M.F.A. No. 8088 of 2008

Kannamma

APPELLANT

Vs

New India Assurance Co. Ltd. and Mr. Chandra Kumar

RESPONDENT

Date of Decision : 29-03-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 163 A

Citation : (2011) 03 KAR CK 0166

Hon'ble Judges : N.K. Path, J

Bench : Single Bench

Advocate : Shripad V. Shastri, for the Appellant; G. Narayana Rao, for R1, for the Respondent

Judgement

N.K. Path, J.—This appeal by the claimants is directed against the impugned judgment and award dated 19th March 2008, passed in M.V.C. No. 3398/2006, by the IV Addl. Judge. Court of Small Causes, Member, Motor Accident Claims Tribunal, Metropolitan Area, Bangalore, (SCCH-6), (for short, "Tribunal") for enhancement of compensation on the ground that, the compensation of Rs. 2,92,500/- awarded in favour of the claimant as against her claim for Rs. 07.50 Lakhs, is inadequate.

2. The facts in brief are that, the claimant Appellant is the mother of the deceased Late Murugesh V @ Gopal. She filed the claim petition u/s 163-A of the Motor Vehicles Act, contending that, at about 11:45 A.M. on 26-04-2006, when the deceased was travelling as a pillion rider on Motor Cycle bearing No. KA-03/U-9052 ridden by its rider, slowly and cautiously, he met with an accident on account of rash and negligent driving by the driver of a Lorry bearing No. KA-13/4433 and due to the injuries sustained in the said accident, he succumbed to the same on the spot.

3. It is the case of the Appellant, that, the deceased was aged about 20 years, working as lorry mechanic and earning a sum of Rs. 40,000/- per annum and hale and healthy prior to the accident. It is also her case that he was contributing

the entire sum towards the family requirements and on account of his untimely death, the family has become haywire and she has lost the only source of income apart from social and financial security in her life and therefore, she has to be compensated reasonably.

4. On account of the death of the deceased, the Appellant filed the claim petition before the Tribunal, seeking compensation against the Respondents. The said claim petition had come up for consideration before the Tribunal on 19th March 2008. The Tribunal, after considering the relevant material available on file and after appreciation of the oral and documentary evidence, allowed the claim petition in part, awarding a sum of Rs. 2,92,500/- under different heads, with 6% interest per annum, from the date of petition till the date of payment. Being dissatisfied with the quantum of compensation awarded by the Tribunal, the Appellant is in appeal before this Court, seeking enhancement of compensation.

5. I have heard learned Counsel for Appellant and learned Counsel for first Respondent - Insurance Company, for quite some time.

6. After hearing learned Counsel for the parties, after careful perusal of the judgment and award passed by the Tribunal and after going through the original records made available, it is seen that the occurrence of accident and the resultant death of the deceased are not in dispute. The Tribunal, after assessing the oral and documentary evidence available on file, coupled with the age and avocation of the deceased and the year of accident, has rightly assessed the monthly income of the deceased at Rs. 3,000/- and it does not call for interference. The claim petition is filed u/s 163-A of the Act and as per the Second schedule to Section 163-A of the Motor Vehicles Act, from out of the compensation towards loss of dependency at Rs. 6,48,000/-, 1/3rd has to be deducted. But, the Tribunal has seriously erred in deducting 50% towards the personal expenses of the deceased. Therefore, as per the second schedule, the loss of dependency, after deducting 1/3rd towards personal expenses, would work out to Rs. 4,32,000/- as against Rs. 2,88,000/- awarded by Tribunal.

7. However, the compensation awarded by Tribunal towards the conventional heads at Rs. 4,500/- is just and proper and it does not call for interference.

8. In the light of the facts and circumstances of the case, as stated above, the appeal filed by Appellant is allowed in part. The impugned judgment and award dated 19th March 2008, passed in M.V.C. No. 3398/2006, by the IV Addl. Judge, Court of Small Causes, Member, Motor Accident Claims Tribunal. Metropolitan Area, Bangalore. (SCCH-6), is hereby modified, awarding a sum of Rs. 4,36,500/- as against Rs. 2,92,500/- awarded by the Tribunal, with interest at 6% per annum on the enhanced sum, from the date of petition till the date of realization. The enhancement of compensation would be a sum of Rs. 1,44,000/-.

The Insurance Company is directed to deposit the enhanced compensation of Rs. 1,44,000/-, with interest thereon at 6% per annum, within four weeks from the date of receipt of copy of the judgment and award.

Immediately on such deposit by the Insurance Company, 50% of it shall be deposited in Fixed Deposit the name of the Appellant - mother of deceased, in any Nationalized/Scheduled Bank, for a period of five years, renewable for another five years, with liberty reserved to her to withdraw the periodical interest.

Remaining 50% of the deposited amount shall be released in favour of the Appellant, immediately.

Office to draw award, accordingly.