

(1998) 09 KAR CK 0004
In the Karnataka High Court
Case No : M.F.A. No. 3232 of 1998

Karnataka State Road Transport Corporation

APPELLANT

Vs

Anja Devi and Others

RESPONDENT

Date of Decision : 17-09-1998

Acts Referred:

Motor Vehicles Act, 1988 — Section 163 A, 163 A (1)

Citation : (2000) ACJ 1214

Hon'ble Judges : Hari Nath Tilhari, J

Bench : Single Bench

Advocate : M.H. Mutigi, for the Appellant;

Final Decision : Dismissed

Judgement

Hari Nath Tilhari, J.—Heard the learned counsel for the appellant.

2. This appeal is directed against the quantum of compensation awarded. The accident had taken place on 8.3.1994 and according to the finding of the Tribunal, the cause for accident has been the negligence of the driver of the bus of the appellant Corporation. The claim had been made to the tune of Rs. 2,70,000, but the Tribunal has awarded Rs. 79,200 for loss of dependency; Rs. 8,000 under the head of loss of benefit to the estate; Rs. 6,000 for loss of consortium; and Rs. 3,000 towards medical treatment, conveyance and nourishment and further a sum of Rs. 3,000 towards the funeral expenses. It rounded off the amount and awarded global compensation of Rs. 1,00,000 with interest at the rate of 6 per cent per annum.

3. It has been contended that for the loss to estate, the sum of Rs. 8,000 is excessive and not in consonance with the Schedule given to the Act. Second Schedule of the Motor Vehicles Act has to be read along with Section 163-A. It reads as under:

Section 163-A. Special provisions as to payment of compensation on structured formula basis.—(1) Not with standing anything contained in this Act or in any

other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

Explanation.-For the purposes of this sub-section, "permanent disability" shall have the same meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923).

(2) In any claim for compensation under Sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

(3) The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.

A combined reading of the entire Sub-sections (1) and (2) of Section 163-A reveals that it along with Second Schedule applies to such a case where the claimant would not have been required to plead or establish that the death or permanent disablement has been due to wrongful act or neglect or default of the owner of the vehicle concerned. In the present case, the claimants have been required to prove the wrongful act and negligence of the present appellant's driver because present appellant has contended that there was no negligence of its driver. Then there has been a dispute and dispute has been raised as to the question of negligence as to whether the driver of the vehicle was negligent or not in driving the vehicle and so this provision may not be of any help to the appellant.

4. In this view of the matter, in my opinion, Section 163-A would not apply to such a case and grant of amount of Rs. 8,000 towards loss to estate cannot be said to be illegal. The compensation under other heads does not appear to be illegal. The Tribunal has assumed the age of the victim to be 55 years at the time of the accident. Quantum and multiplier have not been challenged. It has been contended that medical expenses awarded to the tune of Rs. 3,000 was unjust and it is based on no document. After the accident had taken place on 8.3.1994, the death had taken place on 13.3.1994. Even if no document has been produced, the Tribunal has not awarded Rs. 3,000 only for medical expenses, but it awarded it under three heads, namely, medical expenses, nourishment and conveyance. So it cannot also be said to be excessive. In my opinion, there is no force in this appeal. Appeal is dismissed.