

(1997) 09 KAR CK 0091

In the Karnataka High Court

Case No : Miscellaneous First appeal No. 1890 of 1992

Kaveriappa and Another

APPELLANT

Vs

Kariyappa and Others

RESPONDENT

Date of Decision : 18-09-1997

Acts Referred:

Citation : (1999) ACJ 528 : (1998) 4 KarLJ 372

Hon'ble Judges : M.F. Saldanha, J

Bench : Single Bench

Advocate : Sri C.V. Nagesh, for the Appellant; Sri H.G. Ramesh, M/s. A.C.C. Associates, for the Respondent

Judgement

1. The appeal is directed against the joint order dated 4th July, 1991, wherein compensation of Rs. 5,400/- was awarded to the father in relation to the injuries suffered by him and compensation of Rs. 23,400/- was awarded to him as compensation to him for the death of his daughter. The facts of the case indicate that the appellant/father was riding a bicycle and that when he approached the main road near Banashankari, he instead of stopping and watching the traffic as required to be done, that he shot out on to the main road totally disregarding the traffic that was passing by him. To compound matters, the appellant had a second person on the bicycle who was his daughter and it was quite obvious from the description of the manner in which the accident took place, that the vehicle was totally unstable as a result of which a truck which was moving down the main road hit the bicycle. The appellant sustained minor injuries for which he was awarded compensation of Rs. 5,400/-. The Tribunal has assessed the facts very carefully and has come to the conclusion that there was contributory negligence on the part of the appellant insofar as he had failed to stop and give way to the traffic on the main road before coming out of the side road from which he was proceeding. Secondly, the appellant had committed a breach of the law by indulging in the familiar practice of double riding. It is unfortunate that the traffic control authorities have been ignoring such dangerous practices on the

roads which have resulted in a whole series of accidents most of them fatal like the present one in which valuable lives have been lost and there also a second category in which a large number of injuries have resulted. The Tribunal held the appellant guilty of contributory negligence to the extent of 10% and therefore reduced the compensation receivable by that proportion. It is only because the opposite party has not filed any appeal that I refrain from interfering with this finding because after hearing Mr. Ramesh who represents the Insurance Company and a perusal of the record it is clear to me that this is one of those cases where the degree of negligence on the part of the claimant could be as high as 80% to 90%. The truck driver had very little chance in a situation such as this. Having regard to the fact that no appeal has been preferred, I leave the finding as it is whereby the degree of negligence has been computed at 10%. The appeal is essentially directed against that finding and to my mind, it would be impossible to interfere with it.

2. There is also an appeal directed against the quantum as far as the compensation awarded to the daughter is concerned. The Tribunal computed the compensation payable at Rs. 26,000/- and after deducting 10% has awarded Rs. 23,400/-. There is some evidence on record to indicate that the girl was working and earning something but it is not very clear as to how much this amount was. The fact of the matter is that this was a fatal accident case and on an overall view of the record, to my mind, the compensation of Rs. 23,400/- will have to be slightly enhanced to Rs. 30,000/-. The order with regard to payment of interest and costs is maintained. The Insurance Company shall deposit the balance amount with the Tribunal within an outer limit of twelve weeks from today. On receipt of the amount, the Tribunal shall disburse the same to the claimant in the proportion as earlier directed. The appeal succeeds and stands disposed of. No order as to costs. The Tribunal shall issue notice to the claimants to come and collect the amount from the Tribunal.

3. Before parting with this judgment, it is necessary for this Court to issue certain specific directions with regard to the illegal practice of "double riding" on bicycles in public places. The law does not permit it despite which the police authorities turn a blind eye to the situation resulting in disastrous consequences. Irrespective of whether a bicycle is being ridden by a youngster or by an adult, there is a tendency for this vehicle to zigzag which is one of the serious hazards given the present levels of congestion on the roads. This is the 23rd fatal accident appeal relating to double riding which has come up for compensation before this Court in the course of the last one month wherein a father was riding the bicycle and the daughter was killed in the accident. The main cause of the accident is virtually traceable to the fact that the bicycle had become unstable and out of control even though the rider was an adult. In the majority of the earlier cases, the rider of the bicycle was a youngster and the situation was even worse. It is in this background that it is brought to the notice of the police authorities that they shall specifically follow the directions as set down below.--

(a) That in no circumstances shall double riding of bicycles be permitted irrespective of the ages of the rider or the second person. A bicycle shall only be ridden by one individual and it shall not be permissible even to carry a child as the second person on a bicycle.

(b) That the traffic regulations that apply to all other vehicles shall apply with equal stringency to persons using bicycles and consequently, a police authority shall ensure that the observance of the lane system, the compliance with all other rules of the road and in particular, the regulations applying to no entry streets and one-way roads shall be enforced strictly even as against the bicycle riders.

4. The police authorities shall bring it to the notice of the public through a prominent press release that on the spot fines/deposit of not less than Rs. 100/- will be collected in all cases where there is a breach of the law on the part of a cyclist.

5. A copy of this judgment shall be forwarded to the Director General of Police, Karnataka State who shall ensure that the aforesaid directions are implemented.