

(2015) 01 KAR CK 0373

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 201502 of 2014 (MV)

L and T Gen. Ins. Co. Ltd.

APPELLANT

Vs

Laxmibai and Others

RESPONDENT

Date of Decision : 09-01-2015

Acts Referred:

Citation : (2015) 01 KAR CK 0373

Hon'ble Judges : A.S. Pachhapure, J.

Bench : Single Bench

Advocate : Manjunath Mallayya Shetty, Advocate for C.S. Kalburgi, for the Appellant; Babu H. Metagudda, Advocates for the Respondent

Final Decision : Dismissed

Judgement

A.S. Pachhapure, J.—Though the matter is posted in the list of orders, with the consent of learned counsel for both the parties, it is taken up for final disposal.

2. The appellant has challenged the judgment and award granting compensation to respondent Nos. 1 to 4 herein for the death of Shrikanth in a motor vehicle accident.

3. The facts reveal that in the accident that occurred on 04.09.2010 while Shrikanth was proceeding on the motorcycle bearing Regn. No. MH 12 HW 6385, the lorry bearing Regn. No. MH 12 FC 6113 insured with the appellant hit the motorcycle and thereby, Shrikanth died due to the injuries sustained. His legal representatives made a claim for compensation before the Tribunal.

4. The notice was issued by the Tribunal and as the appellant despite the notice did not appear, was placed ex-parte.

5. After recording the evidence, a sum of 6,64,000/- was awarded as compensation with interest at 6% p.a. Aggrieved by the judgment and award, the present appeal is filed by the insurer.

6. Heard the learned counsel for both the parties.

7. Learned counsel for the appellant-insurer submits that it is an ex-parte award and the matter may be remitted to the Tribunal to afford an opportunity to the appellant. He also submits that the insurance company had given vakalath to the Lawyer, who was not well and therefore, he did not appear. Hence, he submits that there is a sufficient cause for non-appearance and seeks to remit back the matter to the Tribunal. Further more, he submits that the quantum of compensation is on the higher side and seeks to reduce the compensation awarded.

8. On the other hand, learned counsel for respondent Nos. 1 to 4/claimants supports the judgment and award of the Tribunal.

9. Respondents 1 to 4/claimants had filed MFA No. 31547/2013 before this Court. The appellant herein appeared in the said appeal as the second respondent. The award of the Tribunal has been confirmed holding that respondents 1 to 4 cannot seek any enhancement.

10. It is not in dispute that notice was issued by the Tribunal and it was served upon the appellant.

11. When an ex-parte award is made, it was open for the appellant to file an application to set aside the ex-parte award putting forth the reasons for its non-appearance. No such steps were taken.

12. In the circumstances, the question of the cause put forth cannot be considered in this appeal.

13. So far as the quantum of compensation is concerned, the Tribunal has accepted that Shrikanth was appointed as a Field Officer in Cadila Pharmaceuticals Limited, Pune and was drawing a salary of Rs. 10,833/- per month. Though the salary certificate was produced, it was not accepted by the Tribunal. It has considered Rs. 8,000/- per month as his income. The deceased Shrikanth was a bachelor and 50% of the salary was deducted towards his personal expenses and a sum of Rs. 6,24,000/- is awarded towards the loss of dependency. Rs. 40,000/- was awarded on conventional heads.

14. Taking into consideration the fact that the deceased Shrikanth was employed as a Filed Officer and was living in a big city like Pune, I am of the opinion that the assessment of income at Rs. 8,000/- per month appears to be just and reasonable. That apart, even in MFA No. 31547/2013 filed by respondent Nos. 1 to 4, the Division Bench of this Court has observed that whatever awarded by the Tribunal is reasonable.

In the aforesaid circumstances, I do not find any ground to call for interference in the impugned judgment and award.

Consequently, the appeal fails and is accordingly dismissed.

The amount in deposit be transmitted to the Tribunal.