(2013) 12 KAR CK 0412

In the Karnataka High Court

Case No : M.F.A. No. 30920 of 2013 (MV)

Mahipal Reddy and Neelamma — APPELLANT

Vs

Ramesh Reddy and The Divisional Manager, Oriental Insurance Co. Ltd. — RESPONDENT

Date of Decision : 03-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0412

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

Bench : Single Bench

Advocate : S.K. Kankatte, for the Appellant; Preeti Patil Melkundi, Advocate for R2, for the Respondent

Final Decision : Allowed

Judgement

K.N. Keshavanarayana, J.—Though this appeal is listed today for orders, by consent of the learned counsel appearing on both sides, the matter is heard for final disposal. This appeal by the claimants in MVC No. 144/2009 on the file of the III Addl. Civil Judge, & MACT Gulbarga, is for enhancement of compensation since they are dis-satisfied with the quantum of compensation awarded by the Tribunal.

2. The appellants-claimants are the parents of the deceased Vishal, who died in the motor vehicle accident that occurred on 09.07.2008. The Tribunal on appreciation of oral and documentary evidence, reckoned the monthly income of the deceased at Rs. 3,000/- and by deducting 50% of the said monthly income towards his personal and living expenses and by adopting multiplier as applicable to the age of the mother quantified the loss of dependency at Rs. 2,70,000/-. In addition, to this the Tribunal awarded a sum of Rs. 10,000/- towards loss of love and affection, Rs. 10,000/- towards loss of estate and Rs. 10,000/- towards transportation of dead body and funeral expenses. Thus in all the Tribunal awarded compensation of Rs. 3,00,000/- and directed same to be paid with interest at 6% from the date of petition till the date of payment.

3. Being dissatisfied with the quantum of compensation claimants are in appeal inter alia on the ground that the Tribunal has committed an error in taking monthly income of the deceased at Rs. 3,000/- though, the claimants have produced the evidence to show that he was working as Manager in Vijaylaxmi saree centre, Gulbarga, drawing a monthly salary of Rs. 6,000/-; that the deduction of 50% towards personal and living expenses is improper and the deduction under this head ought to have been only 1/3rd; that the multiplier should have been adopted with reference to the age of the deceased and not with reference to the age of the mother.

4. The learned counsel for the respondent-insurer sought to justify the reasonings adopted by the Tribunal.

5. I have heard the learned counsel appearing on both sides, perused the judgment under appeal.

6. Undisputedly, the deceased was aged 20 years as on the date of the accident. Though the claimants asserted that the deceased was working as Manager in Vijaylaxmi saree centre, Gulbarga, they did not produce any evidence to substantiate the said contention. Not even a certificate issued by the employer was produced. No one from the said establishment was examined to establish that the deceased was working as Manager therein drawing a monthly salary of Rs. 6,000/-. Therefore, in my considered opinion, the Tribunal is justified in rejecting the said contention. Nevertheless, the Tribunal has proceeded to take notional income of the deceased at Rs. 3,000/-. The deceased an young boy aged about 20 years had a bright future prospects in his life and all the hopes of the parents of seeing their son flourishing in his life was shattered. The accident occurred in the year 2008. The Apex Court in the case of Sri Ramachandrappa Vs. The Manager, Royal Sundaram Alliance Insurance Company Limited, , while dealing with the case involving an accident which occurred in 2004, has held that even a labourer during that period must have been earning wages between Rs. 100/- to Rs. 150/-. Taking into consideration, the age of the deceased and also the award made in similar cases, in my considered opinion the monthly income reckoned by the Tribunal at the rate of Rs. 3,000/- is on the lower side. Taking into consideration, the date of the accident, cost of living at that point of time, the wages generally paid during that period for a labourer, in my considered opinion, the interest of justice would be met if the monthly income of the deceased is taken at Rs. 4,500/-.

7. In view of the fact, that the deceased was a bachelor and died leaving behind his parents, as held in Sarala Verma''s case the deduction towards personal and living expenses of the deceased should be 50%. In the light of the judgment of the Apex Court in the case of Amrit Bhanu Shali and Others Vs. National Insurance Co. Ltd. and Others, the appropriate multiplier even in the case of death of bachelor should be with reference to the age of the deceased and not claimant. Having regard to the age of the deceased, appropriate multiplier would be ''18''. On the basis of this, the loss of dependency would be Rs. 4,86,000/- as

against Rs. 2,70,000/- awarded by the Tribunal. The claimants are entitled for this enhanced compensation. The compensation awarded by the Tribunal under the conventional heads being just and proper, I find no grounds to interfere with the same. Therefore the claimants are entitled for total compensation of Rs. 5,16,000/- (Rupees Five lakhs Sixteen Thousand only) as against Rs. 3,00,000/- awarded by the Tribunal.

8. In view of the above, the appeal is allowed. The compensation payable to the claimants is enhanced to Rs. 5,16,000/- as against a sum of Rs. 3,00,000/- awarded by the Tribunal. The enhanced compensation of Rs. 2,16,000/- (Rupees Two Lakhs Sixteen Thousand only) shall carry interest at the rate of 6% p.a. from the date of petition till the date of payment. The insurance company shall deposit the enhanced compensation of Rs. 2,16,000/- (Rupees Two Lakhs Sixteen Thousand only) with interest within six weeks from today before the Tribunal. Out of the enhanced compensation, 90% with proportionate interest is ordered to be kept in Fixed Deposit in any Nationalised Bank for a period of ten years in the name of the second claimant-mother of the deceased with liberty to her to withdraw the periodical interest accrued thereon. The balance 10% with proportionate interest shall be disbursed to her.