

(2015) 12 KAR CK 0185
In the Karnataka High Court
Case No : M.F.A. No. 100577 of 2015 (MV)

Mallikarjungouda and Others

APPELLANT

Vs

Basavaraj Malakarjappa Kuri and Others

RESPONDENT

Date of Decision : 02-12-2015

Acts Referred:

Citation : (2015) 12 KAR CK 0185

Hon'ble Judges : S. Abdul Nazeer and Budihal R.B., JJ.

Bench : Division Bench

Advocate : Harish S. Marigur, Advocate, for the Appellant

Final Decision : Partly Allowed

Judgement

S. Abdul Nazeer, J.—The appellants/claimants are the parents of deceased Jayakumar. Jayakumar died in a motor vehicle accident occurred on 22.06.2013. The claim petition filed by the claimants was allowed in part and total compensation of Rs. 6,78,593/- was awarded to the claimants. Therefore, the claimants have filed this appeal seeking enhancement of compensation.

2. Learned counsel appearing for the appellants would contend that the deceased was working as a Lecturer in Mallarappa Menasagi Science, Arts and Commerce Pre-University College, Gadag and was earning Rs. 20,000/- per month. The Tribunal has taken his income at Rs. 6,600/- per month without adding any compensation towards loss of future prospects. It is further submitted that the compensation awarded under other heads is also on a lower side.

3. On the other hand, learned Counsel appearing for the respondent No. 2 - Insurance Company has sought to justify the impugned judgement and award.

4. We have carefully considered the arguments made by the learned Counsel at the Bar and perused the judgment as also the materials on record.

5. There is no dispute as to the occurrence of the accident and the liability of the respondent No. 2 -Insurance Company to pay the compensation. Having regard

to the contentions urged, the only question for consideration is whether the compensation awarded by the Tribunal is adequate?

6. It is not in dispute that the deceased was working as a Lecturer in Mallarappa Menasagi Science, Arts and Commerce Pre-University College, Gadag. Though the claimants contend that the deceased was earning Rs. 20,000/- per month, no materials have been produced in support of the said contention. Therefore, the Tribunal has notionally fixed taken his income at Rs. 6,600/- per month. But, the Tribunal has not awarded any compensation towards loss of future prospects. Having regard to the decision of the Supreme Court in Munna Lal Jain and Others Vs. Vipin Kumar Sharma and Others , the age of the deceased has to be taken for adoption of multiplier. Since the age of the deceased was 29 years, the multiplier applicable to the case is 17. Therefore, 50% of the salary should be added to Rs. 6,600/-, which comes to Rs. 9,900/-. Out of which, 50% has to be deducted since the claimant was a bachelor, which comes to Rs. 4,950/- per month. By taking his income at Rs. 4,950/- with application of multiplier 17, the compensation payable towards loss of dependency comes to Rs. 10,09,800/-. The Tribunal has only awarded a sum of Rs. 4,35,600/- under this head. The balance of compensation comes to Rs. 5,74,200/-. We are of the opinion that the compensation awarded towards love and affection and towards loss of estate in a sum of Rs. 1,00,000/- is just and reasonable. The compensation awarded towards medical expenses and transportation, funeral expenses is also just and reasonable. Thus, the claimants are entitled for an additional compensation of Rs. 5,74,200/-.

7. In the result, the appeal succeeds and it is accordingly allowed in part. The respondent No. 2 -Insurance Company is directed to deposit a sum of Rs. 5,74,200/- with interest at 6% per annum from the date of the application till the date of deposit within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal is directed to release the amount in favour of the claimants in equal proportion. No costs.