(2011) 03 KAR CK 0130

In the Karnataka High Court

Case No : M.F.A. No. 1419 of 2010

Manager National Insurance Company Ltd. — APPELLANT

Vs

Parasappa Ukkadagatri, Ravi Ukkadagatri, Jayappa Gonigere and Annappa S.T. Naik — RESPONDENT

Date of Decision : 15-03-2011

Acts Referred:

Citation : (2011) 03 KAR CK 0130

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : A.N. Krishna Swamy, for the Appellant; A. Hanumanthappa, for R1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

B. Sreenivase Gowda, J.—This appeal is by the insurance company challenging the quantum of compensation awarded by the Tribunal.

2. Heard, the appeal is admitted and with the consent of the learned Counsel appearing for the Parties, it is taken up for final disposal.

3. For the sake of convenience, the parties are referred to as they are referred to in the claim petition before the Tribunal.

4. The brief facts of the case as pleaded in the claim petition are:

On 12.06.2008, when the deceased Hanumanthappa was passing through the left side of the road. Elehole village of Malebennur Taluk, the driver of the vehicle bearing registration No. KA-17-X-890 came in a rash and negligent manner and dashed against him. As a result, the deceased sustained grievous injuries and later succumbed to injuries in Bapuji Hospital. His two major sons filed a claim petition before the MACT, Davanagere seeking compensation. The Tribunal awarded them a compensation of Rs. 2,36,000/- with interest at 6% p.a.

5. As there is no dispute regarding death of the deceased in a road traffic

accident, negligence and liability of the insurer of the offending vehicle, the only point that arises for my consideration in the appeal is:

whether quantum compensation awarded by the Tribunal is just and reasonable or does it call for reduction?

6 The learned Counsel for the insurer submits that the claimants are major sons of the deceased and the Tribunal has committed an error in deducting 1/3rd of the income towards his personal expenses, and taking 2/3rd of his income towards family contribution, therefore he prays for allowing his appeal by reducing the compensation.

7. The learned Counsel for the claimants submit that there is no infirmity in the finding of the Tribunal and compensation awarded by the Tribunal is just and proper and there is no scope for reduction.

8. Alter hearing the learned Counsel appearing for the parties and perusing the judgment and award of the Tribunal, I am of the view that the compensation awarded by the Tribunal is just and reasonable and there is no scope for reduction.

9. The deceased was aged about 60 years at the time of his death in the accident as evident from the post mortem report Ex.P-3 and MLC extract produced by the Respondent at Ex.R-2. The claimants are two major sons of the deceased. Although in the cause title of the claim petition claimant No. 2 is shown as ITI student studying in KCV College, but in his evidence, he has stated that he is 21 years doing coolie and milk vending business. The claimants in support of their contention that the deceased was a landlord owning 2 acres 29 guntas of land have examined the second claimant as PW-1 and produced Ex.P-5 and 6 which shows that the deceased was owning land measuring 2 acres 29 guntas bearing Sy No. 23/P5, Considering the age of the deceased as 60 years, year of accident as 2008 and extent of land measuring 2 acres 29 guntas, his income could be assessed at Rs. 4,000/- p.III. as against Rs. 3,000/-p.m. assessed by the Tribunal. The claimants are two major sons and deduction of 1/3rd of the income of the deceased towards his personal expenses by the Tribunal is not just and proper and 50% of the income has to be deducted towards his personal expenses. The multiplier of 9 applied by the Tribunal for the age group of deceased is just and proper. Therefore, the loss of dependency'' works out to Rs. 2,16,000/- (4000 x 1/2 x 9 x 12) and the same has been rightly awarded by the Tribunal.

10. Further, it is just and proper to award a sum of Rs. 10,000/- towards loss of love and affection, and Rs. 10,000/- towards transportation of dead body and funeral expenses'' as against Rs. 20.000/- awarded by the Tribunal towards ''conventional heads''.

11. As the compensation awarded by the Tribunal is found to be just and reasonable and there is no scope for reduction, the appeal is dismissed as devoid

of merits.

12. The learned Counsel let the Appellant submits that In view of preferring the appeal, the Appellant could not deposit the amount within the time stipulated'' by the Tribunal and they may be permitted to deposit the same with interest at 6% p.a. only instead of 9% p.a. as directed by the Tribunal.

Considering his submission, the Insurance Company is permitted to deposit the compensation amount together with interest at 6% p.a. within one month from today. If the amount is not deposited within one month from today, then they shall deposit the same with interest at 9% p.a. as awarded by the Tribunal.

13. The amount in deposit is ordered to be transferred to the Tribunal for disbursement in terms of the award of the Tribunal.

14. In view of dismissal of the main appeal Misc. Cvl. No. 3572/2010 filed for stay does not survive, accordingly it is also rejected.

15. No order as to costs.

