

(2011) 01 KAR CK 0142
In the Karnataka High Court
Case No : M.F.A. No. 7952 of 2008

Misri Devi @ Misiri Bai, Prakash M., Kanchan M. and Daku Bai	APPELLANT
Vs	
Oriental Insurance Co. Ltd. and Dhavan Roadways Services	RESPONDENT

Date of Decision : 20-01-2011

Acts Referred:

Citation : (2011) 01 KAR CK 0142

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

Bench : Single Bench

Advocate : Shripad V. Shastri and K.V. Naik, for the Appellant; Arun Ponnappa, for Respondent 1, for the Respondent

Judgement

A.S. Bopanna, J.—The claimants are before this Court seeking enhancement of compensation as against the sum awarded in MVC. No. 790/04.

2. Heard the learned Counsel for the parties and perused the appeal papers.

3. The facts relating to the accident having occurred on 1.12.2003 and the husband of the first claimant having succumbed to the injuries in the said accident is not in dispute. The only question for consideration in this appeal is with regard to the enhancement of compensation under the head of loss of dependency.

4. The Tribunal while assessing the compensation under the said head has reckoned the income of the deceased at Rs. 3,000/- per month. The learned Counsel for the Appellant contends that the Tribunal was not justified inasmuch as the claimants had produced documents to indicate that the deceased was engaged in the business of pawn broking and money lending. The learned Counsel for the Respondent however contends that the Tribunal infact has noticed that aspect of the matter and since no document had been produced to prove the quantum of income, the Tribunal has reckoned the notional income, which is justified.

5. Having considered the rival contentions on the said aspect of the matter, it is seen that the avocation of the deceased in any event cannot be disputed. The only question is with regard to the appropriate income that could be reckoned even in the absence of any specific document to prove the income. In this regard, the fact that the accident has occurred in the year 2003 is not in dispute and the fact that the claimant had four dependants to support apart from his personal expenses also requires to be kept in view. If these aspects are noticed and considering that they were residents of Bangalore, the income of Rs. 4,000/- per month, in any event, cannot be considered as exaggerated. Out of the same, 1/4th would have to be deducted for personal expenses since the balance would be available to the family considering the fact that there were four dependants. The appropriate multiplier applicable to the age of the deceased would be 15 and if the said parameters are kept in view and compensation is reworked, towards the head of loss of dependency, the claimants would be entitled to Rs. 5,40,000/-. Since the Tribunal has already awarded Rs. 3,36,000/-, the claimants would be entitled to enhanced compensation of Rs. 2,04,000/- with interest at the same rate as awarded by the Tribunal.

6. The enhanced compensation shall be deposited by the first Respondent within a period of six weeks from the date of receipt of a copy of this order. On deposit, the amount shall be apportioned in the same manner as done by the Tribunal and the appropriate portions allotted to each of the sharers by way of enhancement shall be disbursed to the claimants.

7. In terms of the above, the appeal stands disposed of. No order as to costs.