

(1996) 07 KAR CK 0020
In the Karnataka High Court
Case No : M.F.A. No. 736 of 1991

M.R. Narahari Pandit

APPELLANT

Vs

Veenadevi Jalan and Another

RESPONDENT

Date of Decision : 08-07-1996

Acts Referred:

Citation : (1996) 07 KAR CK 0020

Hon'ble Judges : M.P. Chinnappa, J

Bench : Single Bench

Advocate : K.T. Gurudevaprasad, for the Appellant; M.V. Poonacha, for the Respondent

Judgement

M.P. Chinnappa, J.—This appeal is preferred by the owner of the vehicle who had met with an accident and sustained damages to enhance the compensation awarded by Motor Accidents Claims Tribunal, Shimoga, in MVC No. 68 of 1988 dated 26.11.1990 wherein the Tribunal was pleased to award a sum of Rs. 12,300/- with interest at 9 per cent from the date of petition till the date of payment.

2. Heard learned advocate for appellant and learned advocate for respondents.

3. Learned advocate for the appellant submitted that the Tribunal has committed an error in deducting 50 per cent of the cost of the spare parts used for repairing the vehicle and in support of his argument he relied upon a decision in Mysore (now Karnataka) State Road Trans. Corporation v. N.R. Somashankar 1982 ACJ 39 (Karnataka).

4. Repelling the arguments learned Counsel for respondents submitted where the vehicle in question is of 1970 model and the expert has correctly assessed the damage and deducted 50 per cent, the award passed by the learned Tribunal does not call for interference.

5. In this case, the Tribunal has accepted the report of the PW 3 who is an

expert. According to his report which is marked as Exh. PW 4 the total cost of the spare parts is Rs. 10,470.46, however, he has deducted 50 per cent of the amount and arrived at a figure of Rs. 5,235/-. The Tribunal was pleased to award the labour charges. This High Court in Mysore (now Karnataka) State Road Trans. Corporation v. N.R. Somashankar 1982 ACJ 39 (Karnataka), held that the question of depreciation would arise only when the bus becomes a scrap or suffers total loss for which the damages have to be determined. In the instant case, the damages awarded were to meet the actual expenses incurred for the repairs and replacement. Therefore, the question of depreciation does not arise.

6. In this case also the vehicle in question is of 1970 model and was road-worthy, hence not required to be replaced. On the other hand, the vehicle was repaired by replacing new spare parts and the actual cost of new spares was to be given to the owner of the vehicle. Under these circumstances the deduction of 50 per cent of the value of spares is not correct which calls for interference.

7. In the result, I proceed to pass the following order:

The appeal is partly allowed and compensation awarded is enhanced by Rs. 5,235/- with interest as awarded by the Tribunal. No order as to costs in this appeal.