

(2011) 02 KAR CK 0081
In the Karnataka High Court
Case No : M.F.A. No. 87 of 2009

M.S. Gurudeva Aradhya and Keerthana, Represented by her Father/Natural Guardian APPELLANT

Vs

The Divisnal Manager, The Oriental Insurance Co. Ltd. and M. Nagendra RESPONDENT

Date of Decision : 14-02-2011

Acts Referred:

Citation : (2011) 02 KAR CK 0081

Hon'ble Judges : N. Ananda, J

Bench : Single Bench

Advocate : R. Chandra Shekar, for Lawyers Net, for the Appellant; R. Gunashekar, for the Respondent

Judgement

N. Ananda, J.—The matter is listed for orders. With the consent of learned Counsel for parties, it is taken up for final disposal.

2. For the reasons stated in Misc. Cvl. 79/2009, delay of 219 days in filing the appeal is condoned.

3. This is a claimants appeal for enhancement of compensation.

4. Heard Sri R. Chandra Shekar, learned Counsel for claimants and Sri R. Gunashekar, learned Counsel for Insurance Company.

5. The tribunal has awarded compensation of Rs .4,73,000/- under following heads:

- 1) Loss of dependency Rs. 4,08,000/-
- 2) Loss of consortium Rs. 20,000/-
- 3) Funeral expenses Rs.5,000/-
- 4) Loss of love and affection of Appellants 2 and 3 Rs. 20,000/-

5) Mental agony and depression Rs. 20,000/-

Total Rs. 4,73,000/-

6. The claimants are the husband and child of deceased K.G. Usha, who suffered injuries in a motor vehicle accident that took place on 24.9.2006 and succumbed to injuries on 25.9.2006. As per evidence adduced by claimants, deceased was working in a garment factory and she was also doing household work. The tribunal has determined the income of deceased at Rs. 3,000/- p.m. The deceased had completed S.S.L.C examination and she had also completed job oriented course in tailoring. Therefore, I determine the income of deceased at Rs.4,000/- p.m. Therefore, loss of dependency would be Rs. 32,000/- p.a. The tribunal has determined the age of deceased at 25 years and adopted "17" multiplier. The learned Counsel for claimants would submit that as per copy of S.S.L.C. marks card of deceased, the date of birth of deceased is 1.7,1980. As on the date of accident, she had completed 26 years. In terms of the judgment of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , appropriate multiplier is "17" Thus, capitalised loss of dependency would be Rs.5,44,000/- (Rs. 32,000 x 17). In addition to this, first claimant is entitled to compensation of Rs. 10,000/- towards loss of consortium" and claimants are entitled to compensation of Rs. 30,000/- under conventional heads.

Thus, claimants are entitled to total compensation of Rs. 5,84,000/-.

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

The appeal is accepted in part. The impugned award is modified. Compensation of Rs. 4,73,000/- awarded by the tribunal is enhanced to Rs. 5,84,000/-. The rest of the impugned award as is relates to rate of interest period of accrual of interest and liability of Respondents is confirmed. However, the interest for the delayed period of 219 days would be disallowed. The payment and investment shall be in the ratio evolved by the tribunal Parties are directed to bear their costs.