(2013) 11 KAR CK 0297

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 3524 of 2012 (MV)

Munavar Pasha and Smt. Shabana Banu — APPELLANT

Vs

Divisional Controller, Owner-cum-Internal Insurance Fund of the KSRTC — RESPONDENT

Date of Decision : 29-11-2013

Acts Referred:

Citation : (2013) 11 KAR CK 0297

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : M.Y. Sreenivasan, for the Appellant; B.L. Sanjeev, for the Respondent

Final Decision : Partly Allowed

Judgement

S. Abdul Nazeer, J.—This appeal by the claimants is directed against the judgment and award in MVC No. 330/2008 dated 22.6.2010 on the file of the District and Sessions Judge at Chamarajanagar, whereby the Tribunal has awarded compensation of Rs. 1,51,000/- with interest at 6% per annum from the date of the petition till the date of the deposit. The contention of the learned counsel for the appellants is that the deceased was a minor aged about 4 years. In the case of death of a minor in a motor vehicle accident, the Courts have uniformly awarded the compensation in a sum of Rs. 2,25,000/- towards pecuniary damages, Rs. 75,000/- towards non-pecuniary damages and Rs. 75,000/- towards loss of future prospects. The total compensation awarded in such cases is Rs. 3,75,000/-. Therefore, the Tribunal has erred in awarding only a sum of Rs. 1,51,000/-.

2. On the other hand, learned counsel for the respondent-Corporation has sought to justify the impugned judgment and award. It is his submission that in the case of death of a minor aged 4 years, the question of awarding pecuniary and non-pecuniary damages as contended by the appellants does not arise.

3. I have carefully considered the arguments of the learned counsel made at the

Bar and perused the materials placed on record.

4. It is not in dispute that the son of the appellants aged 4 years died in a motor vehicle accident occurred on 29.3.2008. Respondent-Corporation does not dispute its liability to pay the compensation. This Court in The New India Assurance Company Ltd., vs. Sri Subhash Kallappa and Another - 2012 Kant M.A.C. 346 (Kant), has considered a similar question in detail and has awarded compensation in a sum of Rs. 4,00,000/-. The decisions of the Apex Court in R.K. Malik and Another Vs. Kiran Pal and Others, , and in R.D. Hattangadi Vs. M/s. Pest Control (India) Pvt. Ltd. and Others, and several decisions of the Apex Court have been followed while deciding the matter.

5. Delhi High Court in Mohd. Ayyub and Another Vs. Satish Kumar Gupta and Others, , has considered the award of damages to the parents of a minor child aged about 7 years, who died in a motor vehicle accident. It has taken note of several decisions of the Apex Court including R.K. Malik and R.D. Hattangadi''s cases (supra). It has been held as under:

This case is squarely covered by the aforesaid judgment of this Court which related to the case of 7 years old. Following the aforesaid judgment, Rs. 2,25,000/- is awarded towards pecuniary damages following the Second Schedule of the Motor Vehicles Act, Rs. 75,000/- is awarded towards non-pecuniary damages and Rs. 75,000/- is awarded towards future prospects. The total compensation awarded is Rs. 3,75,000/-.

6. Having regard to the decisions referred to above, I am of the view that the claimants are entitled for total compensation of Rs. 3,75,000/-.

7. The Tribunal has awarded compensation of Rs. 1,51,000/-, which has to be deducted from the said amount. The balance of compensation comes to Rs. 2,24,000/-. The claimants are entitled for interest at the rate of 6% per annum on the said amount from the date of the application till the date of deposit. In the result, the appeal is allowed in part. The respondent-Corporation is directed to deposit a sum of Rs. 2,24,000/- with interest at 6% per annum from the date of the application till the date of deposit. However, the claimants are not entitled for interest for 513 days having regard to the order dated 28.10.2013 on I.A. No. 1/2012. The enhanced amount shall be deposited before the Tribunal within a period of eight weeks from the date of receipt of copy of this order. The appellants are permitted to withdraw the said amount in equal proportion. No costs.