(2013) 11 KAR CK 0045

In the Karnataka High Court

Case No : M.F.A. No. 828 of 2013 (MV)

Parvathamma APPELLANT

Vs

Chandrakala R. and Another RESPONDENT

Date of Decision : 07-11-2013

Acts Referred:

Citation : (2014) 1 AKR 35

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

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

Judgement

S. Abdul Nazeer, J.—This appeal by the claimant is directed against the judgment and award in MVC No. 327/2009, dated 20.01.2011 on the file of the Addl. Senior Civil Judge & CJM and MACT, Mandya, whereby the Tribunal has awarded total compensation of Rs. 3,82,000/- with interest at 6% per annum from the date of the petition till the date of deposit. The appellant/claimant is the mother of one Mahesha. Mahesha had died in a motor vehicle accident occurred on 21.9.2008. Therefore, his mother filed the claim petition seeking compensation. According to the claimant, the deceased was working in a Printing Press and earning Rs. 8,000/- per month. However, the Tribunal has taken his income at Rs. 4,000/- per month. After deducting 50% of the income towards his personal expenses and by applying multiplier 13, since the age of his mother was 49 years at the relevant point of time, a sum of Rs. 3,12,000/- was awarded towards loss of dependency.

2. Learned counsel for the appellant would contend that the deceased was working in a Printing Press and earning Rs. 8,000/- per month. The owner of the Printing Press was examined as PW 2. In his evidence, he has categorically stated that the deceased was earning Rs. 8000/- per month.

3. On the other hand, learned counsel appearing for the respondent-Insurance Company has sought to justify the impugned judgment and award.

4. I have carefully considered the arguments of the learned counsel made at the Bar and perused the materials placed on record.

5. It is no doubt true that owner of the Printing Press was examined as PW 2. He has asserted that he was paying monthly salary of Rs. 8,000/- to the deceased. However, no materials have been produced in support of the said contention. Having regard to the facts and circumstances of the case, it is just and proper to hold that he was earning Rs. 5,000/- per month. By deducting 50% towards personal expenses and applying multiplier 13, since his mother was aged 49 years at the time of accident, the compensation payable towards loss of dependency comes to Rs. 3,90,000/-. Thus, the claimant is entitled for an additional compensation of Rs. 78,000/- under this head. The compensation awarded under other heads is just and proper. In the result, the appeal succeeds and it is accordingly allowed in part. The respondent-Insurance Company is directed to deposit a sum of Rs. 78,000/- with interest at 6% per annum from the date of the application till the date of deposit within a period of eight weeks from the date of receipt of a copy of this order. The appellant is not entitled for interest on the additional compensation for a delayed period of 642 days. The appellant is permitted to withdraw the amount on its deposit. No costs.

