(2012) 08 KAR CK 0111

In the Karnataka High Court

Case No : M.F.A. No. 9811 of 2010 (MVC)

Prabhavathi S.T. and Master Siddesh, Since Appellant No. 2 is Minor Rep. by Mother/Natural Gu Aridna Prabhavathi S.T.	APPELLANT
Vs	
The Managing Director KSRTC K. H. Road, No. 160/A, 1 Floor Shanthinagar, Bangalore 27, G. K. Siddanna and Gangamma	RESPONDENT

Date of Decision : 02-08-2012

Acts Referred:
Karnataka Motor Vehicles Act, 1988 — Section 166

Citation : (2012) 08 KAR CK 0111

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : R. Chandrashekar, for the Appellant; Sumangala A. Swamy, for R1 Notice to R 2 and R 3, for the Respondent

Judgement

B. Sreenivase Gowda

1. This appeal is by the claimants seeking enhancement of compensation awarded by the Tribunal. For the sake of convenience parties are referred to as they are referred to in the claim petition before the Tribunal.

2. As there is no dispute regarding death of deceased S. Nagaraju in a road traffic accident occurred on 22.05.2008 due to rash and negligent driving of a KSRTC bus bearing registration No. KA 35-A-4545 by its driver and liability of KSRTC, the only point that remains for my consideration in the appeal is:

Whether quantum of compensation awarded by the Tribunal is just and proper or does it call for enhancement?

3. The deceased was aged about 30 years. The claim petition was filed by his wife, a minor child and parents seeking compensation u/s 166 of the Karnataka Motor Vehicles Act. The claimants in support of their contention that deceased S. Nagaraju was working as Field Stock Representative in M/s Pawan Man Power and Allied Services have produced his salary certificate at Ex. P 7, salary

statement at Ex. P 13 and Ex. P 12 authorisation letter and have examined the 1st claimant as PW 1 and one B.N. Rajesh as PW 2 who has produced Ex. P 12.

4. The deceased was aged about 30 years at the time of his death in the accident and with regard to adding a portion of his salary to his income towards future prospectus, the learned counsel for the claimant submits that the deceased was working as a courier agent in an established courier company namely First Flight Couriers against a permanent post. In addition to his salary, he was getting other benefits such as ESI, Provident Fund and etc. and Rs.60/- was deducted towards professional tax and therefore 50% of his salary has to be added to his income towards his future prospects.

5. Per contra, the learned counsel for the KSRTC submits that the employment of the deceased in a Courier company was not a permanent employment and therefore, 50% of his salary cannot be added to his income towards future prospectus and only 30% can be added as per the law laid down in Santhosh Devi''s case.

6. It is not in dispute that deceased was working as a courier agent in First Flight Couriers which is an established courier company against a permanent post and getting salary of Rs.4,789/- with the benefits of provident fund, ESI, HRA etc., like that of benefits provided to a servant of State and Central Government. In fact, a sum of Rs.60/- is deducted towards professional tax. Therefore, it is to be held that he was working against a permanent post and hence 50% of his salary has to be added to his income towards future prospects. If so his monthly income comes to Rs.7,138/- (Rs.4,759/- + Rs.2,379/- (Rs.4759/-x 50%). All the four claimants are dependent claimants and therefore 1/4th of his income has to be deducted towards his personal expenses and 3/4th has to be taken as his contribution to family. The multiplier applicable to the age group of the deceased is 17. If so, loss of dependency works out to Rs. 10,92,114/-(Rs.7,138/- x 3/4x 12 x 17) and it is awarded as against Rs.6,52,936/- awarded by the Tribunal.

7. The Tribunal has rightly awarded Rs.25,800/-towards medical expenses based on medical bills produced by the claimants and there is no scope for enhancement under this head.

8. A sum of Rs.40,000/- is awarded under conventional heads as against Rs.35,000/- awarded by the Tribunal.

Thus, the claimants are entitled for the following compensation:

I) Loss of dependency

Rs.10,92,114/-

II) Medical expenses

Rs. 25,800/-

III) Conventional heads

Rs. 40,000/-

Total

Rs. 11,57,914/-

less compensation awarded by the tribunal

Rs. 7,13,736/-

Additional compensation comes to

Rs.4,44,178/-

9. Accordingly the appeal is allowed in part and the judgment and award of the Tribunal is modified to the extent stated herein above. The claimants are entitled for an additional compensation of Rs.4,44,178/- with interest at 6% p.a. from the date of claim petition till the date of realisation and without interest for the delayed period of 308 days. The K.S.R.T.C. is directed to deposit the additional compensation together with interest within two months from the date of receipt of a copy of this judgment, from which Rs. 1,25,000/- each with proportionate interest is ordered to be invested in the name of claimants 1 and 2 and Rs.50,000/- each with proportionate interest in the name of claimants 3 and 4 in. :F.D., in any nationalised/scheduled bank or post office for a period of 12 years in the case of 1st claimant and till attaining majority of released in the case of 2nd claimant and 3 years in the case of 3rd and 4th claimants with a right of option to renew the same once in two years and withdraw interest periodically. The 1st claimant is permitted to withdraw interest on her behalf and on behalf of 2nd claimant and the remaining amount is ordered to be released in favour of first claimant.

No order as to costs.

