(2016) 01 KAR CK 0180

In the Karnataka High Court

Case No : M.F.A. No. 5295/2010 (MV)

Renu Lokesh and Others APPELLANT

Vs

The Divisional Controller, N.W.Y.K.S.R.T.C. RESPONDENT

Date of Decision : 12-01-2016

Acts Referred:

Citation : (2016) 01 KAR CK 0180

Hon'ble Judges : R.S. Chauhan, J.

Bench : Single Bench

Advocate : Shripad V. Shastri, Advocate, for the Appellant; H.R. Renuka, Advocate, for the Respondent

Final Decision : Partly Allowed

Judgement

R.S. Chauhan, J.—1. Dissatisfied with the compensation of Rs. 14,51,200/- granted by the Motor Accidents Claims Tribunal, Bangalore, by the award dated 15th October 2009, passed in MVC. No. 3472/2005, the claimants-appellants have approached this Court for enhancement of compensation.

2. Briefly the facts of the case are that on 5.2.2004, at around 7.30 p.m. one Chandrappa, driver of a bus belonging to the Corporation bearing registration No. KA-25-F-1463, allegedly drove the bus on the Puna-Bangalore National Highway i.e., NH-4, in a rash and negligent manner. Near the Mundagod cross, he dashed the bus against a Qualis car bearing registration No. KA-04-B-4774. Due to the collusion, one Mr. Venkanna H. Sannagoundar and Mr. Lokesh died and one Mr. Hemanth Dundasi sustained grievous injuries. Subsequently, three claim petitions were filed before the learned Tribunal, namely, MVC. Nos. 7009/2004, 7010/2004 and 3472/2005. After going through the oral and documentary evidence, the learned Tribunal granted the compensation to the claimants-respondents as mentioned above. Hence, this appeal before this Court.

3. Mr. Shripad V. Shastri, the learned counsel for the appellants has vehemently contended that the learned Tribunal has erred in not including any future

prospects by calculating the salary of the deceased Lokesh. According to Ex. P-17, the salary certificate, while in 2004, the deceased Lokesh was earning a gross salary of Rs. 11,885/- per month, while in 2019, he would have earned a gross salary of Rs. 22,856/-. Therefore, while assessing the income of the deceased, the income should have been doubled by the learned Tribunal. However, instead of doing so, it has merely taken his salary as Rs. 11,885/- and has not added the future prospects.

Secondly, for the loss of consortium, the learned Tribunal has granted a mere sum of Rs. 10,000/- and has granted Rs. 5,000/- towards funeral expenses. Relying on the case of Rajesh v. Rajbir Singh {, 2013 (9) SCC 54}, the learned counsel has pleaded that for loss of consortium, a compensation of Rs. 1 lakh should have been paid. Moreover, funeral expenses should have been increased to Rs. 20,000/-. Therefore, the impugned award deserves to be interfered with.

On the other hand, Ms. H.R. Renuka, the learned counsel appearing for the respondent-Corporation, has pleaded that the salary certificate Ex. P-17 cannot be taken into consideration even if it projects the future income and claims that by 1st of March 2019, he would be entitled a gross salary of Rs. 22,856/- per mensem, the same would not have been accepted by the learned Tribunal. For, in catena of cases, the Hon''ble Supreme Court has opined that only 50% of the salary should be added in order to assess the future prospects on the basis of the income earned by the deceased.

Secondly, the accident had occurred in the year 2004, whereas, in the case of Rajesh (supra), the accident had occurred in the year 2007. Therefore, the compensation of Rs. 1 lakh should not be paid to the claimants for loss of consortium. According to her, the compensation paid in the category of loss of consortium and funeral expenses is a reasonable one. Thus, the award does not deserve to be interfered with by this Court.

Heard the learned counsel for the parties and perused the impugned award.

In catena of cases, the Hon''ble Supreme Court has deprecated the practice of taking the gross salary for calculating the future prospects as projected for many years. According to the Hon''ble Supreme Court, if the age of the deceased is less than 40 years, then 50% of his income should be added as future prospects. Therefore, the contention raised by the learned counsel for the appellants that the future salary as shown in Ex. P-17 should have been accepted by the learned Tribunal, is clearly unacceptable.

However, a bare perusal of the impugned award does reveal that while assessing the income of the deceased, the learned Tribunal has failed to include the future prospects by 50% of the salary. The learned Tribunal has merely taken the gross salary as the actual salary the deceased would have carried home. In case, the gross salary is reduced to net salary, the net salary of the deceased would be Rs. 11,000/- per month. Taking the net salary as the income the deceased would have taken home, and adding 50% thereof, his income comes out to be Rs.

16,500/- per month. Since the deceased was married, he would have spent one-third of the amount for himself, then the loss of dependency can be calculated as Rs. 11,000 x 12 x 15 f 15'' is the multiplier), the total comes to Rs. 19,80,000/-. Hence, loss of dependency needs to be increased from Rs. 14,26,200/- to Rs. 19,80,000/-.

In the case of Rajesh (supra), the Hon''ble Supreme Court had granted compensation of Rs. 1 lakh after discussing the very concept on loss of consortium. However, the case of Rajesh (supra), was of the year 2007, whereas, the present case is of the year 2004. Therefore, this Court is of the opinion that for loss of consortium a compensation of Rs. 80,000/- should be granted to the claimants.

The funeral expenses of Rs. 5,000/- as awarded by the learned Tribunal seems to be very meager. Therefore, the funeral expenses are increased to Rs. 20,000/-. Thus, the claimants-appellants are entitled to a total compensation of Rs. 20,80,000/-, which is as under:

Accordingly, the appeal is partly allowed. The judgment and award passed by the learned Tribunal is modified and the claimants-appellants are granted enhanced compensation of Rs. 6,38,800/- (Rs. 20,80,000 - Rs. 14,51,200/-), along with interest at the rate of 6% p.a. from the date of petition till the date of deposit. The respondent-Corporation is directed to deposit the enhanced amount through a demand draft in the name of the claimant-appellant No. 1 - Smt. Renu Lokesh, along with interest at 6% p.a. as mentioned above.

The amount deposited before this Court shall be transferred to the learned Tribunal forthwith.

The Registry is directed to send the records forthwith to the concerned Tribunal.

