

(2015) 01 KAR CK 0406

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 10165/2011 (MV)

Rudramurthy

APPELLANT

Vs

The Managing Director, K.S.R.T.C.

RESPONDENT

Date of Decision : 27-01-2015

Acts Referred:

Citation : (2015) 01 KAR CK 0406

Hon'ble Judges : B. Sreenivas Gowda, J.

Bench : Single Bench

Advocate : M.G. Ravisha and Veerabhadraiah, for the Appellant; L. Narasimha Murthy for S.N. Aswathanarayan, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

B. Sreenivas Gowda, J.—This appeal is by the claimant seeking enhancement of compensation awarded by the Tribunal.

2. With the consent of learned counsel appearing for the parties, appeal is heard, admitted and disposed of finally.

3. For the sake of convenience, the parties are referred to as they are referred to in the claim petition before the Tribunal.

4. As there is no dispute regarding death of one Siddagangamma in a road traffic accident occurred on 15.11.2008 due to rash and negligent driving of KSRTC bus bearing registration No. KA-1-F-7632 by its driver and liability of the Corporation, the only point that arises for my consideration in the appeal is:

"Whether the compensation of Rs. 30,000/- with interest at 6% p.a. awarded by the Tribunal is just and reasonable or does it call for enhancement?" 5. After hearing the learned counsel appearing for parties and perusing the judgment and award of the Tribunal, I am of the view that the quantum of compensation awarded by the Tribunal is not just and reasonable, it is on the lower side and hence it is required to be enhanced.

6. Learned counsel for the claimant submits that the Tribunal has committed error in not awarding any compensation towards "Moss of dependency" and even compensation awarded towards "Moss of love and affection" and "Mineral expenses" is also on the lower side. Therefore, he prays for allowing the appeal by enhancing the compensation.

7. Sri L. Narasimha Murthy, for Sri S.N. Aswathanarayan, learned counsel appearing for the respondent - Corporation submits that the claimant being the major son of his deceased mother is not entitled to be awarded compensation towards "Moss of dependency". Therefore the Tribunal is justified in not awarding compensation towards loss of dependency. The compensation awarded towards "Moss of love and affection" and "Mineral expenses" is just and proper and there is no scope for enhancement and therefore he prays for dismissal of the appeal.

8. Admittedly, deceased was aged about 65 years at the time of her death. Claim petition was filed by her major son aged about 40 years.

9. Claimant in support of his contentions that his deceased mother by doing agricultural work and preparing condiment items was earning Rs. 7,500/- p.m. except examining himself as PW.1 has not adduced any other evidence. Therefore, in the absence of proof of income considering the age of the deceased as 65 years, the year of accident as 2008 and her avocation as home maker, her income is assessed at Rs. 4,000/- p.m.

10. The claimant in his claim petition as well as in his evidence has stated that his deceased mother was looking after the affairs of his family. No contra evidence was adduced by the insurer. It is no doubt true that the claim petition is filed by the major son of deceased. Even then an amount of contribution rendered by any mother for that matter towards her family cannot be ignored and estimated in terms of money. In the instant case the claimant was the lonely son to his deceased mother and she must have contributed to the family of the claimant in many kinds including contributing her earnings and it must have been more than 50%. Therefore, it is just and proper to deduct 50% of the earnings of deceased towards her personal and living expenses and take the remaining 50% of her earnings as her contribution towards the family the claimant who was her lonely son and it would be as per the judgment of the Hon'ble Supreme Court in the case of National Insurance Company Ltd. Vs. Meghji Naran Soratiya and Others, . Multiplier of 7 is to be applied based on the age of deceased who was aged about 65 years at the relevant point of time. Thus loss of dependency would work out to Rs. 4,000/- x $\frac{1}{2}$ x 12 x 7 = 1,68,000/- and it is awarded.

11. A sum of Rs. 30,000/- awarded by the Tribunal under the conventional heads is just and proper.

12. Thus, the claimant is entitled for the following compensation:--

Accordingly, the appeal is allowed in part. The judgment and award passed by the Tribunal is modified. The claimant is entitled for an additional compensation

of Rs. 1,68,000/- with interest at 6% p.a. from the date of claim petition till the date of realisation.

The KSRTC is directed to deposit the additional compensation amount together with interest within two months from the date of receipt of a copy of this judgment. From which, 75% of the amount with proportionate interest is ordered to be invested in fixed deposit in the name of claimant in any Nationalised Bank/ Scheduled Bank/ Gramina Bank for a period of 10 years and with a right of option to withdraw interest periodically and remaining amount with proportionate interest is ordered to be released in favour of the claimant. The Tribunal, while releasing the amount is also directed to issue FD slip so that the claimant can withdraw the same immediately after the FD is matured without approaching the Tribunal once again.

The Bank in which the amount will be invested in Fixed Deposit is also directed to release Fixed Deposit amount on maturity without insisting for further orders from the Court.

No order as to costs.