(2015) 03 KAR CK 0211

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 30171 of 2012 (MV)

Seetabi and Others APPELLANT

Vs

Savita and Others RESPONDENT

Date of Decision : 12-03-2015

Acts Referred:

Citation : (2015) 03 KAR CK 0211

Hon'ble Judges : Budihal R.B., J.

Bench : Single Bench

Advocate : Harshavardhan R. Malipatil, for the Appellant; Nandkishore Boob, Advocates for the Respondent

Final Decision : Allowed

Judgement

Budihal R.B., J.—This is the appeal preferred by respondent Nos. 3 and 4 before the tribunal in MVC No. 26/2010 passed by the MACT-VIII at Muddebihal, who are the parents of the deceased Basu Chavan, for seeking enhancement of compensation and also challenging the correctness of apportionment of compensation awarded by the tribunal.

2. Heard the arguments of learned counsel appearing for the appellant and also learned counsel appearing for respondent-Insurance Company.

3. The facts leading to the case that on 24.04.2009, the deceased was going on ALBC canal road as pedestrian and when he was returning from his land to Kolur Thanda, at that point of time, 1st respondent tractor bearing No. KA-28/TR-0568 and its un-register No. KA-28/TA-4759 driven by its driver in a very rash and negligent manner and caused the accident. On account of the said accident, the deceased expired by sustaining injuries all over the body.

4. The respondent-Insurance Company has filed the written statement denying the income of the deceased and his avocation as a driver. It is also stated that the compensation claimed is exorbitant. Hence, sought for dismissal of the claim petition.

5. After considering the rival contentions and also the evidence placed on record, ultimately, the tribunal has awarded an amount of Rs. 4,62,000/-. Being aggrieved by the same and also challenging the apportionment made in favour of the appellants by the tribunal, the present appeal is filed.

6. So far as the income of the deceased is concerned, the tribunal has taken the monthly income of the deceased at Rs. 3,000/- per month, which is on the lower side. The accident is of the year 2009. Hence, the tribunal ought to have taken the income at Rs. 5,000/- per month and the annual income comes to Rs. 60,000/-. The deceased left four legal heirs. Hence, the annual income is to be deducted by 1/4th. So, Rs. 45,000/- will be the net annual income of the deceased. The deceased was aged 23 years as per the findings of the tribunal and hence, the proper multiplier applicable is 18. So, the amount towards loss of future earnings comes to (3,750 x 12 x 18) Rs. 8,10,000/- as against Rs. 4,32,000/- awarded by the tribunal. Hence, the enhanced amount on this head comes to Rs. 3,78,000/-.

The tribunal has awarded only an amount of Rs. 10,000/- for loss of estate. The appellants as well as respondent Nos. 1 to 3 are also entitled another amount of Rs. 10,000/- on this head.

Towards funeral expenses, the tribunal has awarded only an amount of Rs. 10,000/-. Hence, the appellants as well as respondent Nos. 1 to 3 together are entitled to another amount of Rs. 10,000/- on this head.

For transportation of dead body an amount of Rs. 10,000/- is awarded. Hence, the appellants as well as respondent Nos. 1 to 3 are entitled to enhanced amount as follows:

Consequently, the appeal is allowed. The respondent -Insurance Company is liable to pay the enhanced amount with interest at 9% per annum from the date of petition till its payment.

The enhanced amount is to be deposited before the concerned tribunal, within 30 days from the date of receipt of copy of this judgment.

So far as the apportionment as challenged by the appellants herein, the tribunal has correctly apportioned and I do not find any valid and justifiable grounds to interfere and accordingly it is ordered.

