(2013) 09 KAR CK 0065

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 21600 of 2010 (MV)

Smt. Abida and Others — APPELLANT

Vs

Arvind Motors Private Limited and Others — RESPONDENT

Date of Decision : 19-09-2013

Acts Referred:

Citation : (2014) 1 KarLJ 733

Hon'ble Judges : K.L. Manjunath, J

Bench : Single Bench

Advocate : R.A. Purohit for Sri Dinesh M. Kulkarni, for the Appellant; Sharmila M. Patil, Sri M.K. Soudagar, Sri Sadiq N. Goodwala and Sri Sunil S. Desai, Advocates for Goular Associates, for the Respondent

Judgement

K.L. Manjunath, J.—Sri M.K. Soudagar is directed to take notice for respondent 2. By consent the appeal is heard on merits. Appellants were claimants in M.V.C. No. 22 of 2007 before the M.A.C.T., Hubli. The claim petition was lodged on account of the death of one Mehaboob Sab, who died in a road traffic accident on 28-8-2006 at about 8.45 p.m. on account of the respondent''s lorry ran over the deceased while crossing the road. Deceased was aged 40 years, was a Coolie. The claimants contended that the deceased was earning a sum of Rs. 6,000/- per month. The Tribunal disbelieved the income of the deceased, assessed income of the deceased at Rs. 3,000/- per month, deducted 1/3rd towards his personal expenditure, by applying the multiplier 12 awarded compensation of Rs. 3,36,000/- under the head loss of dependency and Rs. 20,000/- towards loss of consortium and loss to the estate. Therefore, the present appeal is filed.

2. Having heard the Counsel for the parties this Court is of the opinion that the Tribunal did not consider the case of the claimants properly following the judgment of the Apex Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, . Admittedly there are five claimants who are the widow, minor children and aged parents. Therefore, deduction of 1/3rd towards personal expenditure is incorrect. Considering the total number of dependents

1/4th was required to be deducted. Considering his age the proper multiplier was required to be applied was 15 and the Trial Court has also not awarded any compensation under the head loss to the estate and funeral expenses. On reconsidering the entire evidence, considering the income of the deceased at Rs. 3,000/- per month and deducting 1/4th towards personal expenses, loss of dependency has to be assessed at Rs. 2,250/- per month and Rs. 27,000/- per annum by applying the multiplier of 15 the loss of dependency has to be assessed at Rs. 4,05,000/-. In addition to that the claimants are entitled for Rs. 50,000/- towards loss of consortium, loss of love and affection, loss to estate, transportation of dead body and funeral expenses. Thus in all the claimants are entitled for a total compensation of Rs. 4,55,000/- with interest at 6% p.a.

In the result, the appeal is allowed in part. Compensation awarded by the Tribunal has been enhanced from Rs. 3,56,000/- to Rs. 4,55,000/- with interest at 6% p.a. from the date of petition till payment.

Out of the enhanced compensation, a sum of Rs. 50,000/- with accrued interest shall be deposited in the name of appellant 1-widow of the deceased for a period of five years. She is entitled to withdraw periodical interest. Rest of the amount shall be released to the claimants.