(2013) 04 KAR CK 0186

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 15202 of 2007 (MV)

Smt. Arati Simpron Pinto and Others — APPELLANT

Vs

J. Luis and Another — RESPONDENT

Date of Decision : 09-04-2013

Acts Referred:
Motor Vehicles Act, 1988 — Section 168, 173

Citation : (2014) 2 ACC 620 : (2014) 2 AKR 711 : (2013) 6 KarLJ 431

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : T.M. Nadaf, for the Appellant; V.R. Datar, for the Respondent

Judgement

B. Sreenivase Gowda, J.—This appeal is by the claimants seeking enhancement of compensation awarded by the Tribunal. With the consent of the learned Counsel appearing for the parties, the appeal is heard, admitted and disposed of finally.

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

3. As there is no dispute regarding death of deceased in a road traffic accident occurred on 28-10-2006 due to rash and negligent driving of the Qualis car bearing registration No. KA-03-C-9150 by its driver and liability of the insurer of the offending vehicle, the only point that arises for my consideration in the appeal is:

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

4. After hearing the learned Counsel appearing for parties and perusing the judgment and award of the Tribunal, I am of the view that the compensation awarded by the Tribunal is not just and reasonable, it is on the lower side and hence it is required to be enhanced.

5. The deceased was aged about 35 years at the time of accident as evident from P.M. Report-Ex. P. 2. The claim petition is filed by wife, minor child and mother of the deceased seeking compensation u/s 166 of Motor Vehicles Act, 1988. The claimants in support of their contention that the deceased was working as Assistant Section Officer in BESCOM and was drawing salary of Rs. 10,574/- per month have examined the wife of the deceased as P.W. 1 and produced salary certificates and income tax returns of the deceased at Exs. P. 3 and P. 4. Out of the monthly salary of Rs. 10,574/-, a sum of Rs. 150/- has to be deducted towards Professional Tax. After deducting professional tax, his monthly salary comes to Rs. 10,424/-. Since, the deceased was working against a stable employment, 50% of his income has to be added towards his future prospectus as per the judgment of the Apex Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , which comes to Rs. 15,636/- per month. Since, there are 3 dependent claimants, 1/3rd of the income of the deceased has to be deducted towards his personal expenses and remaining 2/3rd has to be taken towards his family contribution. Multiplier of "16" has to be applied to the age group of the deceased. Therefore, the ''loss of dependency works out to Rs. 20,01,408/- (15,636 x 2/3 x 16 x 12) and it is awarded as against Rs. 9,81,000/- awarded by the Tribunal.

6. Further, a sum of Rs. 45,000/- is awarded under different heads of convention as against Rs. 29,000/- awarded by the Tribunal.

7. Thus, the claimants are entitled for the following compensation:

8. Accordingly, the appeal is allowed-in-part. The judgment and award passed by the Tribunal is modified to the extent stated hereinabove. The claimants are entitled for an additional compensation of Rs. 10,36,408/- with interest at 6% p.a. from the date of claim petition till the date of realisation.

9. The insurer of the offending vehicle 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, Rs. 3,00,000/- with proportionate interest in the name of claimant 1, Rs. 4,50,000/- with proportionate interest in the name of claimant 2 and Rs. 1,50,000/- with proportionate interest in the name of claimant 3 is ordered to be invested in fixed deposit in any Nationalised Bank/Scheduled Bank/Post Office for a period of 10 years in respect of claimant 1, for a period of 6 years in respect of claimant 3 and till the age of attaining majority in respect of claimant 2 renewable from time to time and with a right of option for the claimants 1 and 3 to withdraw interest periodically from their deposit and further with a right of option for the claimant 1 to withdraw interest periodically from the deposit of her minor child. Remaining amount with proportionate interest is ordered to be released in favour of the claimants 1 and 3 in equal proportion. The Tribunal while releasing the amount is directed to issue fixed deposit receipts in favour of the claimants to enable them to withdraw their deposit amounts immediately after the same is matured without approaching the Tribunal once again.

No order as to costs.

