

(2011) 04 KAR CK 0034

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 2916 of 2008 (MV)

Smt. Jalaja and Hemanthgowda

APPELLANT

Vs

The Managing Director, Karnataka State Road Transport
Corporation

RESPONDENT

Date of Decision : 12-04-2011

Acts Referred:

Citation : (2011) 04 KAR CK 0034

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : C. Puttaswamy, for the Appellant; FS Dabali, for the Respondent

Final Decision : Allowed

Judgement

B. Sreenivase Gowda

1. This appeal is by the claimants for enhancement of compensation awarded by the Tribunal.

2. Heard. The appeal is admitted and with the consent of learned Counsel appearing for the parties, it is taken up for final disposal.

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

4 Brief facts of the case are:

That on 18.11.2006, when deceased Basavaraj was travelling in a car bearing registration No. KA-02-P-1809 on NH-48 near Veera-Vaishnavi river bridge, Bellur cross, Nagamangala Taluk, a KSRTC bus bearing registration No. KA-18-F-38 came from opposite direction with high speed in a rash and negligent manner and dashed against the car as a result, the deceased died on the spot. His wife, and a minor son filed a claim petition before the MACT, Bangalore, seeking compensation of Rs. 10,00,000/-. The Tribunal by impugned judgment and award has awarded compensation of Rs. 47,250/- with interest at 6% p.a.

5. As there is no dispute regarding occurrence of accident, negligence and liability of the insurer of the offending vehicle, the only point that remains for my consideration in the appeal is:

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

6. After hearing the learned Counsel for the parties and perusing the award of the Tribunal, I am of the view that the compensation awarded by the Tribunal is not just and proper, it is on the lower side and therefore it is deserved to be enhanced.

7. Deceased Basavaraju was aged about 38 years as on the date of his death in the accident as evident from post mortem report Ex. P 6. Claimants in support of their claim that the deceased Basavaraj was earning Rs. 8,000/- p.m. by doing auto consultancy business have examined the first claimant-wife of the deceased as PW 1 and they have not produced any documents to prove the same. Considering his age as 38 years and year of accident as 2006 his income assessed by the Tribunal at Rs. 3,500/- is on the lower side and I assess his income at Rs. 4,000/- p.m. Claimants are wife and minor child of the deceased and therefore deduction of 1/3rd of his income towards personal expenses and taking 2/3rd as contribution to his family by the Tribunal is just and proper. The multiplier applicable to the age group of the deceased is 15. Accordingly loss of dependency works out to Rs.4,80,000/- (Rs. 4,000/- x 2/3 x 12 x 15) and it is awarded as against Rs. 3,91,999/- awarded by the Tribunal.

8. Rs. 55,250/- awarded by the Tribunal under conventional heads are just and proper and they do not call for enhancement.

9. Accordingly the appeal is allowed in part and the Judgment and award of the Tribunal is modified to the extent stated herein above. 15. The claimants are entitled for a total compensation of 5,35,250/- as against Rs. 4,47,250/- awarded by the Tribunal with interest at 6% p.a. on the enhanced compensation of Rs. 88,000/- from the date of claim petition till the date of realisation.

10. The KSRTC is directed to deposit the enhanced compensation amount with interest within two months from the date of receipt of a copy of this judgment.

11. Out of the enhanced compensation Rs. 25,000/- each with proportionate interest is ordered to be invested in F.D. in any nationalized/scheduled Bank or post office in the name of the claimants and for a period of nine years in respect of first claimant and till attaining the age of majority in respect of second claimant and the remaining amount with proportionate interest is ordered to be released in favor of first claimant.

No order as to costs.