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(2017) 07 KAR CK 0097

In the Karnataka High Court

Case No : 8648 of 2010 [MV]

SMT.MARIA STALLA W/O LATE SANJAY DASS, & ORS. APPELLANT

Vs

M/S.N.S.TOURS & TRAVELS PROPRIETOR - T.MANJUNATH, & ANR. RESPONDENT

Date of Decision : 21-07-2017

Acts Referred:

Citation : (2017) 07 KAR CK 0097

Hon'ble Judges : S.Sujatha

Bench : SINGLE BENCH

Advocate : RADHA.Y, MUNIAPPA.D.NAVEEN, HARISH KUMAR.L, H.S.LINGARAJ

Judgement

1. The judgment and order passed by the Motor Accident Claims Tribunal, (SCCH-12) Bengaluru [the ''Tribunal'', for short] in MVC No.1572/2009 is assailed in this appeal.

2. The appellants are the wife, child and parents of the deceased Sanjay Dass - victim of the motor vehicles accident, which occurred on 09.02.2009. The claimants preferred petition before the Tribunal claiming compensation for the death of Sanjay Dass in the motor vehicles accident alleging actionable negligence on the driver of the car bearing registration No.KA-01-D-3320, duly insured with the insurance company - respondent No.2 herein. On issuance of process, the insurance company appeared and contested the claim. The Tribunal extensively examining the material evidence on record, awarded Rs.6,35,000/- with interest at the rate of 6% p.a., from the date of petition till the date of payment of compensation. Aggrieved by the same, the claimants are in appeal, seeking enhancement of compensation.

3. Heard the learned Counsel for the parties and perused the material on record.

4. The factum of accident and the death of the victim in the road traffic accident are not in dispute. The accident in question occurred on 09.02.2009 owing to the actionable negligence on the driver of the car bearing registration No.KA-01-

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D-3320. The deceased was aged about 39 years at the time of accident and was working as a Sales Executive at Waves Telecom, CMH Road, Bengaluru. Though it was contended by the claimants that he was earning Rs.8,000/- per month and used to contribute his entire income to the maintenance of the family, no cogent evidence was placed on record to establish the factum of income. In such circumstances, the Tribunal determined the monthly income notionally at Rs.4,000/- which appears to be on the lower side compared to the normal mode of determination, in the identical circumstances. This Court finds that, it would be just and proper to re- determine the monthly income at Rs.5,000/- per month. Considering the same with the multiplier of 15, deducting 1/4th of the income towards personal expenses of the deceased, loss of dependency works out to Rs.6,75,000/- (5000 x 12 x 15 x 3/4). Applying the principles of law enunciated by the Hon''ble Apex Court in the case of ''RAJESH AND OTHERS vs. RAJBIR SINGH AND OTHERS'' reported in 2013 [9] SCC 54, it would be just and proper to award the compensation of Rs.1,00,000/- towards loss of consortium to the wife; a sum of Rs.1,00,000/- towards loss of love and affection; a sum of Rs.25,000/- towards funeral expenses, transportation of dead body etc.; and a sum of Rs.10,000/- towards loss of estate.

5. The compensation awarded by the Tribunal is modified as under:

Sl. No. Particulars Amount [in Rs.]

1 Loss of dependency 6,75,000

2 Loss of funeral expenses 25,000

3 Loss of consortium 1,00,000

4 Loss of love and affection 1,00,000

6 Towards estate 10,000

TOTAL 9,10,000

6. Thus, the compensation awarded by the Tribunal is modified to Rs.9,10,000/- as against Rs.6,35,000/-. The award amount shall carry interest at 6% per annum from the date of the petition till the realization. The apportionment and disbursement shall be in terms of the order passed by the Tribunal.

7. In the result, the appeal stands disposed of in terms of the above.

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