

(2017) 01 KAR CK 0349
In the Karnataka High Court
Case No : 2955 of 2012

SMT.POORNIMA

APPELLANT

Vs

SRI V MURUGAN, MAJOR & ORS.

RESPONDENT

Date of Decision : 30-01-2017

Acts Referred:

Motor Vehicles Act, 1988, Section 173(1), Section 173(1) - Appeals

Citation : (2017) 01 KAR CK 0349

Hon'ble Judges : B.Manohar

Bench : SINGLE BENCH

Advocate : C.RAVIKUMAR, H.N.KESHAV PRASHANTH

Judgement

1. The mother of the deceased B.S.Manjunath filed this appeal challenging the judgment and award dated 22nd November 2011 made in MVC No.7566/2010 passed by the Motor Accident Claims Tribunal, Bangalore (hereinafter referred to as "the Tribunal" for short) apportioning very meager compensation of Rs.5,00,000/-.

2. The wife and mother of the deceased B.S.Manjunath filed a claim petition contending that on 31-07-2010, the deceased Manjunath was proceeding in front of M.S. Building, on AGS circle, Ambedkar Road, Bangalore. At that time, a Bajaj Pulsar motorcycle bearing Registration No.KA-02/HB- 6642 came from same direction, in a rash and negligent manner and came to the wrong side of the road and dashed against the deceased Manjunath. Due to the impact, the deceased fell down and sustained grievous injuries all over the body. Immediately after the accident, he was shifted to NIMHANS, however, during the course of treatment, he succumbed to injuries. In the claim petition, it was contended that the deceased was working as a Group-D employee in the Directorate of Printing and Stationary, Government Press, Bangalore and his gross salary was Rs.9,580/- p.m. In view of death of Manjunath, the family has lost the bread earner and hence sought for compensation of Rs.20,00,000/-.

3. The insurance company defended the case by filing the written statement.

4. After trial, the Tribunal held that the accident occurred due to the actionable negligence on the part of rider of the Bajaj Pulsar Motorcycle. Hence, the claimant is entitled for compensation. The Tribunal taking the net salary of the deceased at Rs.9,580/- p.m., since the deceased was aged below 40 years as on the date of accident, adding 50% towards future prospects and deducting 1/3rd towards his personal expenditure, the loss of dependency works out to Rs.9,580/- p.m. $(9,589 + 4,790 = 14,370 - 4,790)$ and the annual income comes to Rs.1,14,960/-, applying the multiplier 16, the Tribunal awarded a sum of Rs.18,39,360/- towards loss of dependency and a sum of Rs.25,000/- towards conventional heads. In all, the Tribunal has awarded a sum of Rs.18,64,360/- with interest at the rate of 6% p.a. Out of the compensation amount, Rs.13,64,360/- was awarded in favour of the wife and Rs.5,00,000/- was awarded in favour of the mother of the deceased. Being not satisfied with the apportionment of the compensation, the mother of the deceased filed this appeal seeking enhancement of compensation. However, the wife has not challenged the judgment and award passed by the Tribunal.

5. Sri. C.Ravikumar, learned counsel appearing for the appellant contended that the judgment and award passed by the Tribunal apportioning a very meager sum has been awarded to the mother of the deceased is contrary to law. Deceased Manjunath was the only son of the appellant and due to his death the family has lost the bread earner. While awarding compensation of Rs.18,39,360/-, only a sum of Rs.5,00,000/- has been apportioned in favour of the mother which is contrary to law and hence sought for enhancement of compensation.

6. On the other hand, Sri.H.N.Keshava Prashanth, learned counsel appearing for the insurance company argued in support of the judgment and award passed by the Tribunal and sought for dismissal of the appeal.

7. I have carefully considered the arguments addressed by the learned counsel for the parties. Perused the judgment and award, oral and documentary evidence adduced by the parties.

8. Occurrence of the accident and death of the deceased Manjunath in the road traffic accident occurred due to the actionable negligence on the part of rider of the Bajaj Pulsar is not in dispute. The only dispute in this appeal is in respect of the quantum of compensation and the apportionment order passed by the Tribunal.

9. The Tribunal, while awarding compensation has awarded major portion of the compensation amount in favour of the wife. In the instant case, the wife has lost her husband at her young age whereas the mother is aged about more than 60 years. Usually, while awarding compensation to the claimants, major portion of the compensation amount would be awarded in favour of the wife however, 10% to 15% of the compensation would be awarded in favour of the mother of the deceased. In the instant case, Rs.5,00,000/- has been awarded in favour of the

appellant and the apportionment of the compensation made by the Tribunal is in accordance with law, as the wife has to lead her remaining life as a widow and that compensation amount will take care of her security. I find that the compensation awarded and the apportionment order passed by the Tribunal is in accordance with law. The appellant has not made out a case to interfere with the said judgment and award. Accordingly, the appeal is dismissed.