
(2016) 03 KAR CK 0071
In the Karnataka High Court
Case No : MFA No. 9788 of 2013(MV).

Sudhir Bediguthu and another

APPELLANT

Vs

P. Mahalingam and another

RESPONDENT

Date of Decision : 03-03-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 168

Citation : (2016) AAC 1201

Hon'ble Judges : N.K. Patel;Rathnakala, JJ.

Bench : Division Bench

Advocate : M.E. Nagesh, Advocate, for the Appellant; Ravi S. Samprathi, Advocate, for the Respondent

Final Decision : Partly Allowed

Judgement

N.K. Patil, J. - This Appeal by the parents of the deceased minor daughter is arising out of the impugned common MVC No. 2033/2011 on the file of the Senior Civil Judge and MACT, Arkalgud (hereinafter referred to as "Tribunal" for short).

2. By its judgment and award, the Tribunal has awarded a sum of Rs. 2,25,000/- with interest at 6% p.a., from the date of petition till its realisation as against the claim made by the appellants, on account of the death of the minor girl, Prakruthi aged about 14 years in the road traffic accident on the ground that the quantum and rate of interest awarded by the Tribunal are inadequate and it requires enhancement.

3. In brief, the facts of the case are:

The appellants are parents of the deceased Prakruthi and they have filed a claim petition before the Tribunal under Section 166 of M.V. Act, claiming compensation on account of the death of the deceased in the road traffic accident, contending that, when the appellants, daughter Prakruthi, brother son Madhu, sister son Ullas were going to Subramany for attending the marriage of their relative on

19-06-2011 in a Maruthi Alto Car bearing No. KA-02-ME-6987 near Kappali ullage, Sakaleshpura Taluk, the driver of the lorry bearing No. TN-30 BY-6988 belonging to first respondent came from Mangalore side in a rash and negligent maimer with high speed and hit against the car of the appellants, due to which the appellants, daughter Prakruthi and others sustained injuries. The deceased Prakruthi sustained grievous injuries on vital parts of the body and they were shifted to Government Hospital Sakaleshapura, where Prakruthi died. The appellants have spent reasonable amount towards transportaion and funeral charges. They have lost their daughter's love and affection and happiness in the life. It is the further case of the appellants that, the deceased was aged about 14 years at the time of accident, hale and healthy and was a brilliant student and the appellants had more expectations. Due to her untimely death, they suffered mental pain and agony and sudden death of the deceased has caused great hardship to the family members. The said claim petition had come up for consideration before the Tribunal. The Tribunal after appreciating the oral evidence of PW Nos. 1 to 5 and documentary evidence at Exs. PI to P70 and other material available on record, has allowed the claim petition in part and awarded the compensation of Rs. 2,25,000/-, with in i erst at 6% p.a., from the date of petition till the date of deposit. Not being satisfied with the compensation awarded by the Tribunal, the appellants have presented this appeal, for enhancement of compensation.

4. We have heard the learned counsel appearing for the appellants and the learned counsel appearing for the respondent No. 2.

5. Learned counsel appearing for both the parties submitted that in the light of the judgment of Apex Court, reported in (2014) 1 SCC 244 in the case of Kishan Gopal v. Lala, the compensation awarded by the Tribunal may be modified by awarding Rs. 5,30,000/- as against Rs. 2,25,000/- awarded by the Tribunal.

6. The submission made by the learned counsel appearing for the parties is placed on record.

7. Following the judgment of Apex Court, reported in (2014) 1 SCC 244 : (2013 AAC 3005) in the case of Kishan Gopal v. Lala, we deem it fit to modify the judgment and award passed by the Tribunal by awarding total sum of Rs. 5,30,000/- with interest at 9% p.a., from the date of petition till the date of deposit as against Rs. 2,25,000/- awarded by the Tribunal. There will be an enhancement of Rs. 3,05,000/- with interest at 9% p.a., from the date of petition till the date of deposit.

8. Having regard to the facts and circumstances of the case as stated above, appeal is allowed in part. The impugned judgment and award passed by the Tribunal dated 7th August 2013 in MVC No. 2033/2011 is hereby modified. The total compensation payable conies to Rs. 5,30,000/- as against Rs. 2,25,000/- awarded by the Tribunal. There will be an enhancement of Rs. 3,05,000/-with 9% interest per annum.

9. The 2nd respondent-Insurer is directed to deposit the enhanced compensation of Rs. 3,05,000/- with interest at 9% p.a., from the date of petition till the date of realisation, within three weeks from the date of receipt of a copy of this judgment.

10. Out of the enhanced compensation, Rs. 1,00,000/- each with proportionate interest shall be invested in the Fixed Deposit in any Nationalized or Scheduled Bank in the name of the 1st and 2nd appellants for a period of five years and renewable for another five years, with liberty to them to withdraw the interest accrued on it periodically.

11. The remaining Rs. 1,05,000/- with proportionate interest shall be released in favour of the 1st and 2nd appellants, in a equal proportion immediately, on deposit by the 2nd respondent-Insurer.

12. Draw the award, accordingly.