(2013) 12 KAR CK 0050

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 10513 of 2011 (MV)

Tahera Begum, Rezwhan, Mohammed Dhastiger and Asma Rohi — APPELLANT

Vs

Naveen Va Chavala, Divisional Control Officer, KSRTC and Managing Director, KSRTC Main Office — RESPONDENT

Date of Decision : 03-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0050

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : K.R. Lingaraju, for the Appellant; F.S. Dabali, for R2 and R3, for the Respondent

Final Decision : Partly Allowed

Judgement

S. Abdul Nazeer, J.—This appeal is directed against the judgment and award in MVC No. 65/2009 dated 22.4.2010 on the file of the Senior Civil Judge and JMFC and Motor Accident Claims Tribunal, Arasikere. The appellants are the wife and children of one Jhawed. Jhawed died in a motor vehicle accident occurred on 7.1.2009. Therefore, the appellants filed the above petition seeking compensation on account of the death of Jhawed. The Tribunal has awarded a total compensation of Rs. 4,00,000/- with interest at 6% per annum from the date of the petition till the date of deposit.

2. Learned Counsel for the appellants would contend that the deceased was a street vendor. He was earning Rs. 10,000/- per month. The Tribunal has taken his income at Rs. 3,000/- per month for the purpose of computation of loss of dependency. The deceased was aged 35 years at the time of the accident. The multiplier applicable to the case is 16 as against 15 applied by the Tribunal. 1/4th of the income should have been deducted towards his personal expenses. It is further contended that the Tribunal has not awarded appropriate compensation towards loss of consortium and loss of love and affection.

3. On the other hand, learned Counsel appearing for the respondent-Insurance Company has sought to justify the impugned judgment and award.

4. I have carefully considered the arguments of the learned Counsel made at the Bar and perused the materials placed on record.

5. There is no dispute as to the occurrence of the accident and the liability of the respondent-Insurance Company to pay compensation. Having regard to the contentions urged, the only question for consideration is as to whether the compensation awarded by the Tribunal is adequate?

6. The accident had occurred on 7.1.2009. The deceased was aged 35 years at the time of the accident. The appellants are the wife and children of the deceased. It is also clear that the deceased was a street vendor. Though the claimants contend that the deceased Jhawed was earning Rs. 10,000/- per month, the said plea has not been established by them. It is just and proper to notionally fix his income at Rs. 4,500/- per month. The multiplier applicable to the case is 16. 1/4th of the income has to be deducted towards his personal expenses as she has left behind four dependants. By taking the income of the deceased at Rs. 4,500/- per month after deducting 1/4th of the income towards his personal expenses and with the application of multiplier 16, the compensation payable towards loss of dependency comes to Rs. 6,48,000/-.

7. The fist appellant is entitled for a sum of Rs. 50,000/- towards loss of consortium and appellant Nos. 2 to 4 are entitled for a sum of Rs. 50,000/- towards loss of love and affection. A sum of Rs. 10,000/- is awarded towards funeral expenses. In all, the claimants are entitled for a sum of Rs. 7,58,000/- towards compensation.

8. The Tribunal has awarded a sum of Rs. 4,00,000/- which has to be deducted from the aforesaid amount and the balance of compensation payable to the claimant is Rs. 3,58,000/-. The said sum of Rs. 3,58,000/- shall carry interest at 6% per annum. In the result, the appeal succeeds and it is accordingly allowed in part. The respondent - Insurance company is directed to deposit a sum of Rs. 3,58,000/- with interest at 6% per annum from the date of the petition till the date of deposit. However, the claimants are not entitled for interest for a period of 485 days as per the order dated 5.11.2013 on I.A. No. 1/2011. The enhanced amount shall be deposited before the Tribunal within a period of six weeks from the date of receipt of copy of this order. A sum of Rs. 1,50,000/- out of the enhanced amount shall be kept in fixed deposit in a Nationalised Bank in the name of the 1st appellant for a period of five years. She appellant is permitted to withdraw the interest annually. She is also permitted to withdraw the balance of the amount. No costs.

