

(2018) 01 KAR CK 0023
In the Karnataka High Court
Case No : 10115 of 2012(MV)

The Bajaj Allianz General

APPELLANT

Vs

B.V.Sudharshan & Ors

RESPONDENT

Date of Decision : 16-01-2018

Acts Referred:

Citation : (2018) 01 KAR CK 0023

Hon'ble Judges : Rathnakala

Bench : Single Bench

Advocate : P.B.Raju, R.Chandrashekhar, Syed Khaleel Pasha

Final Decision : Dismissed

Judgement

1. These two appeals are directed against the judgment and award passed by M.A.C.T., Bengaluru whereby the claim petition filed by the claimants was allowed by awarding compensation of Rs.9,55,000/-. Both the claimants and the insurer have filed these appeals being aggrieved with the computation of the compensation amount.
2. Though the matter is listed for admission, heard both the advocates for final adjudication.
3. The admitted facts are that deceased Ravi Kiran was traveling in a car bearing Registration No.KA- 02-MC-6963 on 29.09.2011. The driver of the car lost control over the vehicle and the vehicle fell into Somanahalli Tank and the deceased suffered grievous injuries. He was shifted to Nimhans, Bengaluru and again to Victoria Hospital and he succumbed to the injuries. The parents and sister of the deceased filed claim petition before the Tribunal and their contention was that the deceased was aged 22 years, a B.Com graduate and was working as Accountant at M/s.

Vision Man Power Agency, earning Rs.15,000/- per month. He was also pursuing with I.C.W. Course in the evening college and he was a brilliant student.

4. The claim was contested by the insurer on various grounds. The Tribunal, on holding the enquiry and on consideration of the overall material on record, allowed the petition and awarded compensation as computed below:

(1) Loss of dependency Rs.9,00,000

(2) Loss of love and affection Rs. 30,000

(3) Transportation, funeral and Obsequies expenses Rs. 25,000

Rs.9,55,000

5. Sri P.B.Raju, learned counsel for the insurer would submit that the compensation amount awarded in respect of the loss of dependency was

exorbitant. The claimant though produced pay slips and salary certificate as per exhibits P18 and P19 pertaining to the deceased, have not

examined the author of the salary certificate. Without any reason, the Tribunal assumed the income of the deceased at Rs.10,000/- per month,

which is exorbitant. Added to that, the Tribunal has chosen the multiplier of 15 which is also not in accordance with the guidelines of the Apex

Court in SARLA VERMA vs. DELHI TRANSPORT CORPORATION AND OTHERS reported in AIR 2009 SC 3104. Therefore, the

computation of the compensation is erroneous and requests to interfere.

6. Sri R.Chandrashekhar, learned counsel for the claimants submits that the deceased is a graduate and also had a bright career as he was

prosecuting his postgraduate diploma and was earning Rs.15,000/- per month. The Tribunal ought not to have disbelieved the pay slips and salary

certificate in the absence of any rebuttal evidence from the insurer. To work out the loss of dependency, the Tribunal has adopted the multiplier of

15 which is erroneous. Since the deceased was aged 22 years, the proper multiplier as per the Apex Court's judgment in the case of SARLA

VERMA (supra) is 18. Hence, loss of dependency ought to be reworked and compensation has to be modified accordingly.

7. With the above submissions in the background, perused the impugned

judgment and award.

8. The Tribunal, in the absence of evidence corroborating documents Exs.P18 and P19 (about the income of the deceased), proceeded to

presume the income of the deceased at Rs.10,000/- per month. Even though there is no acceptable evidence about his income, having regard to

the possible rise in the cost of price index in the future, the income of the deceased can be assessed at Rs.12,000/- per month. The proper

multiplier to work out loss of dependency to the family is 18 since the deceased was aged 22 years. The deceased being a bachelor, by deducting

50% of the salary towards his personal expenses, the contribution of the deceased to the family would be $\text{Rs.}6,000 \times 12 = \text{Rs.}72,000$. By

applying the multiplier of 18, loss of dependency works out to Rs.12,96,000/- as against Rs.9,00,000/- awarded by the Tribunal. Thus, there will

be enhancement by Rs.3,96,000/- rounded off to Rs.4.00 lakhs. The amount of Rs.55,000/- awarded by the Tribunal under other heads is proper

and does not call for any interference.

9. Hence, M.F.A.No.10115/2012 filed by the insurer is dismissed. M.F.A.No.11609/2012 is allowed in part. The compensation awarded by the

Tribunal is modified to the extent that the claimants are entitled for additional compensation of Rs.4.00 lakhs with interest at 6% p.a. from the date

of the petition till the date of deposit.

10. The amount deposited before the Registry by the Insurance Company be transmitted to the concerned Tribunal. The Insurance Company shall

deposit the balance compensation amount within three weeks of receipt of the certified copy of this order. The concerned Tribunal shall disburse

the compensation to the claimants as per the order of the Tribunal.

11. Sri P.B.Raju is permitted to file vakalath within two weeks.