(2014) 12 KAR CK 0208

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 23520/2009 (MV)

The Divisional Controller KSRTC — APPELLANT

Vs

Khadar Sab — RESPONDENT

Date of Decision : 18-12-2014

Acts Referred:

Citation : (2014) 12 KAR CK 0208

Hon'ble Judges : K.N. Phaneendra, J

Bench : Single Bench

Advocate : Shivakumar S. Badawadagi, Advocate for the Appellant; Y. Lakshmikant Reddy, Advocate for the Respondent

Judgement

K.N. Phaneendra, J.—The appellant-KSRTC being aggrieved by the judgment and award dated 21.4.2009 passed by the XI MACT, Bellary in MVC No. 1247/2007 is before this Court challenging the quantum of compensation awarded by the Tribunal.

2. The respondent Nos. 1 & 2 are claimants represented by their counsel Sri. Lakshmikanthreddy. Notice to R3 is dispensed with.

3. I have heard the arguments of Sri. Shivakumar S. Badawadagi, learned Counsel for the appellant and Sri. Lakshmikanth Reddy for respondent Nos. 1 & 2, I have carefully perused the records.

4. The claimants are the father and mother of the deceased Mehaboob Basha. The deceased Mehaboob Basha sustained grievous injuries in a motor vehicle accident occurred on 23.8.2007 at about 11.30 p.m. near a bridge on NH 19 Road, Rampur and later he succumbed to the injuries. It is the case of the claimants that the accident was mainly occurred due to the rash and negligent driving of the vehicle, a KSRTC bus bearing No. KA-07/F-977. The appellant has contested the proceedings before the Tribunal and ultimately, the court on assessing the compensation awarded compensation of Rs. 6,16,000/- in favour of the claimants.

5. The trial Court has awarded compensation under the following heads:

6. Sri. Shivakumar S. Badawadagi, learned Counsel is not seriously contested the compensation awarded in so far as other heads except the compensation awarded under the head of loss of dependency''. According to the learned Counsel, the Tribunal has not assessed the compensation properly for the reason that the Tribunal has taken the age of the deceased and applied the multiplier of ''17'' instead of taking the younger age of the parents of the deceased, the Tribunal ought to have taken ''14'' as the multiplier in this case. He has also contended that 50% of the earnings of the deceased should have been deducted towards his personal expenses but the trial court has not properly assessed the same but it has assessed 1/3rd of the income. Therefore, he has contended that the Tribunal has committed serious error in assessing compensation so far as the head loss of dependency'' is concerned.

7. The learned Counsel appearing for the claimants-respondent Nos. 1 & 2, contended that though the trial Court might have committed some error in assessing the compensation, this court being the appellate court can award just and reasonable compensation under the head loss of dependency''. The learned Counsel has further contended that even if the Tribunal has awarded more compensation under the said head, but it does not mean to say that the total compensation awarded by the Tribunal is un-reasonable in this particular case.

8. As I have noticed that this court has been consistently taking the income at Rs. 5,000/- per month pertaining to the year 2007, even in the absence of any proof regarding occupation or avocation. In this particular case, the deceased was a driver and he has produced his driving licence and it is admitted by the Tribunal that he was doing the work of driver. Therefore, taking Rs. 4,000/- per month as the income of the deceased, in my opinion is on the lower side.

9. The learned Counsel for the appellant is right in contending that the Tribunal ought to have deducted 50% of the income of the deceased towards his personal expenses. However, the Tribunal has not considered the future prospects of the deceased and if he would have been alive, what would be his income in future. Therefore, 50% of which has to be added to his monthly income. If Rs. 5,000/- is taken as his actual income per month., Rs. 2,500/- is to be added as future prospects and 50% of which is to be deducted towards his personal expenses. Then the income of the deceased comes down to Rs. 3,750/-. Even taking the age of the younger parent of the deceased as 41, ''14'' multiplier has to be applied. Taking into consideration the multiplier ''14'' and the monthly income of the deceased, the total compensation ought to have been awarded by the Tribunal is more than Rs. 6,30,000/-. However, the Tribunal has awarded a sum of Rs. 6,16,000/-. Therefore, I do not find any strong reasons to interfere with the judgment and award passed by the Tribunal.

The court has to see the overall analysis of the material on record. On re-assessment of the compensation awarded, I find the trial Court has awarded just and reasonable compensation. Looking to these factors, in my opinion, the appeal is liable to be dismissed. The appellant is the beneficiary, because of the reason that the trial Court has actually awarded less compensation towards loss of dependency'' is concerned.

In the above said circumstances, the appeal is devoid of merits and the same is liable to be dismissed and accordingly the appeal is dismissed.

The amount in deposit is ordered to be transmitted to the Tribunal for disbursement.

