

(2012) 01 KAR CK 0266

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 4423 of 2011 (MV)

The Divisional Controller, K.S.R.T.C.

APPELLANT

Vs

Smt. Lakshmamma and Others

RESPONDENT

Date of Decision : 04-01-2012

Acts Referred:

Citation : (2012) 01 KAR CK 0266

Hon'ble Judges : A.S. Pachhapure, J

Bench : Single Bench

Advocate : Sumangala A. Swamy, for the Appellant; Girimallaiah, for R1 -4, for the Respondent

Final Decision : Allowed

Judgement

A.S. Pachhapure

1. The appellant has filed this appeal challenging the compensation awarded to the respondents for the death of Srinivasa in a motor vehicle accident.

2. Respondents 1 and 2 herein are the parents of Srinivasa (the deceased). On 25-10-2009 Srinivasa was proceeding on his Motor Cycle alongwith his friend on Malavalli-Kollegal road and at that lime a KSRTC bus bearing No.KA-01-F-7746 came in a rash and negligent manner from the opposite direction and hit the Motor Cycle. Srinivasa sustained grievous injuries and died at the spot. He was a Diploma holder and said to have been working in Coats India Limited. He was earning Rs. 14,000/- p.m. The respondents being the parents and brothers of the deceased claimed the compensation. The appellant appeared and contested the claim. During the enquiry PWs.1 and 2 were examined and the documents Exs.P. 1 to 11 were marked. The Tribunal on appreciation of the material on record held actionable negligence on the part of the driver of the Bus and assessing the income at Rs.6,000/- p.m. and adopting the appropriate multiplier and granted compensation of Rs.7,20,000/- towards loss of income. It deducted 1/3 towards personal expenses of the deceased. It granted additional sum of Rs.25,000/-

under conventional heads. Aggrieved by the quantum of compensation awarded, this appeal has been preferred.

3. I have heard the learned counsel for both the parties. The point that arise for my consideration is:

Whether the compensation awarded by the Tribunal is on the higher side ? If so, what is the just compensation ?

4. The documents produced at Exs.P.7 to 11 reveal that the deceased after completion of SSLC studied Diploma and the Diploma Certificate has been produced at Ex.P.7. The marks card has been produced at Ex.P. 10. It is in the evidence of PW. 1 that the deceased was working in Coats India Limited, Bangalore as Computer Operator. Infact, no documents have been produced to prove his services in the said Company. Except the oral evidence on record, there is no other material.

5. The accident is of the year 2009. Even for a labour in 2001, the Apex Court granted compensation at the rate of Rs. 100/- per day i.e., Rs.3,000/- p.m. Generally, even for a Coolie the income is assessed at Rs.4,000/- p.m. As Srinivasa (the deceased) had completed Matriculation and also Diploma in Engineering, even considering the potential. I think that the Tribunal was justified in considering the income at Rs.6,000/-p.m.

6. Respondents 3 and 4 are the brothers of the deceased and have attained the age of majority and hence, they cannot be dependents on the income of the deceased. The only claimants are the parents i.e. the mother and father of the deceased. Hence, the Tribunal ought to have deducted 50% towards the personal expenses of the deceased. It committed an error in deducting 1/3 towards the personal expenses. Considering the income of the deceased at Rs. 6,000/- p.m. adopting the multiplier of 15 on the basis of the age of the mother of the deceased and deducting 50% towards the personal expenses, the loss of dependency would be Rs.5,40,000/-. The Respondents 1 and 2 have lost their son. There is loss of love and affection, loss to the estate and in addition they had to incur expenses for funeral. I think a sum of Rs.40,000/- has to be awarded under the conventional heads. Thereby, the claimants are entitled to Rs.5,80,000/- with interest at 6% p.a. from the date of petition till payment. In that view of the matter, I answer the point in affirmative and proceed to pass the following:

ORDER

The appeal is allowed in part. The award of the Tribunal is modified and the compensation is reduced to Rs. 5,80,000/- with interest at 6% p.a. from the date of petition till payment. The order of the Tribunal regarding apportionment of the compensation is maintained. The amount in deposit shall be transmitted to the Tribunal concerned.