

(2016) 10 KAR CK 0021
In the Karnataka High Court
Case No : M.F.A. No. 3532 of 2014.

**The Divisional Controller, K.S.R.T.C., Mangalore Division
Mangalore-575001 now by the Managing Director NWKRTC, Central
Offices, Gokul Road, Hubli-580030. Rep. By Its Chief Law Officer -
Appellant @HASH Master Afrid S/o Late Kathijamma Aged About 18 Years**

Date of Decision : 18-10-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, Section 167, Section 168

Citation : (2016) 4 ACC 8

Hon'ble Judges : S. Sujatha, J.

Bench : Single Bench

Advocate : Smt. Sandhya Rao P., Advocate, for the Applicants; Sri A.K. Bhat, Advocate, for the Respondent No. 2; Sri F.S. Dabali, Advocate, for the Respondent No. 3; Notice to Dispensed With, for the Notice to Respondent Nos. 1 and 4

Final Decision : Disposed Off

Judgement

S. Sujatha, J. - KSRTC ("Corporation, for short) as well as claimants are before this Court assailing the Judgment and Order passed by the Motor Accident Claims Tribunal, D.K., [the Tribunal", for short] in MVC No. 153/2003 whereby the Tribunal has fastened the liability on the Corporation to satisfy the award.

2. Heard the learned counsel for the parties and perused the material on record.

IN MFA No. 3532/2014:

3. Learned counsel appearing for the appellant-Corporation placing reliance on the Judgment of the Hon'ble Apex Court in the case of Uttar Pradesh State Road Transport Corporation v. Kulsum and others reported in 2011 ACJ 2145 would contend that for all practical purposes, for the relevant period when the vehicle was taken on hire as per the contract, to ply the same on the routes as per the permit granted, the Corporation had become the owner of the vehicle for the specific period. The vehicle having been insured at the instance of the original owner, the vehicle was deemed to have been transferred along with the

insurance policy in existence to the Corporation and thus, the Insurance company is liable to indemnify the owner. This argument of the learned counsel appearing for the Corporation appears to have some force in view of the Judgment of the Hon"ble Apex Court in Kulsum's case (supra). In the light of the said Judgment, the liability fastened on the Corporation deserves to be set-aside. Accordingly, is set-aside. The insurer-respondent No.3 shall be liable to make the payment of the compensation quantified.

IN M.F.A. No. 4242/2015:

4. Claimants are challenging the impugned Judgment and award as the quantum of compensation awarded being meager. Considering the factual matrix of the case and following the principles enunciated by the Hon"ble Apex Court in the case of "Rajesh and Others v. Rajbir Singh and Others" reported in 2013 [9] SCC 54, it would be just and reasonable to award compensation of Rs. 1,00,000/- towards loss of love and affection; a sum of Rs. 25,000/- towards transportation, funeral expenses and obsequies. In all other respects, the compensation awarded by the Tribunal remains unaltered.

5. The compensation awarded by the Tribunal is modified as under:

Sl. No.

Particulars

Amount [in Rs.]

1

Medical expenses

18,000

2

Transportation of dead body and funeral expenses

25,000

3

Loss of consortium

1,00,000

4

Loss of estate

10,000

5

Loss of dependency

4,08,000

TOTAL

5,61,000

6. Thus, the claimants are entitled to Rs. 5,51,000/- as against Rs. 4,74,000/- with interest at 6% per annum from the date of the petition till the realization.

7. The apportionment and disbursement of the award amount shall be in terms of the order passed by the Tribunal.

8. In the result, both the appeals stand disposed of in terms of the above.

9. Amount in deposit IN MFA 3532/2014 shall be refunded to the Corporation, forthwith.