(2013) 12 KAR CK 0420

In the Karnataka High Court

Case No : MFA No. 32403 of 2013 (MVC)

The Divisional Manager, National Insurance Co. Ltd. — APPELLANT

Vs

Seetabai and Others — RESPONDENT

Date of Decision : 18-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0420

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

Bench : Single Bench

Advocate : Preeti Patil Melkundhi, for the Appellant; Sanjeevkumar C. Patil, for the Respondent

Final Decision : Partly Allowed

Judgement

K.N. Keshavanarayana, J.—Though the appeal is listed today for orders by consent of the learned counsel appearing on both sides, the matter is heard for final disposal. This appeal by the insurer is directed against the common judgment and award dated 25.02.2013 passed by the Fast Track Court, Basavakalyan, Bidar District, in MVC Nos. 588/2012 and 594/2012, insofar it relates to MVC No. 594/2012.

2. Though the appellant-Insurer has questioned the judgment even with regard to the liability saddled by the Tribunal to satisfy the award on the insurer, in the light of the judgment of the Division Bench in MFA No. 32402/2013 arising out of the award in MVC No. 588/2012, it does not press the said ground in this appeal. Therefore, the only challenge is with regard to the quantum of compensation.

3. The Tribunal by accepting the contention of the claimants that the deceased was a mason, reckoned the daily income of the deceased at Rs. 400/- and by deducting 1/4th of the said income towards living and personal expenses of the deceased and by adopting the multiplier of "8", quantified the loss of dependency at Rs. 8,64,000/-. In addition to this, the Tribunal awarded Rs. 10,000/- towards consortium, Rs. 25,000/- towards loss of love and affection,

Rs. 5,000/- towards Transportation of the dead body and Rs. 5,000/- towards funeral expenses. Thus, the Tribunal in all awarded a sum of Rs. 9,09,000/-.

4. In the common judgment, in respect of the other claim petition also, the Tribunal had fixed the daily income of the deceased therein at Rs. 400/- on the ground that the deceased was a mason. In the appeal arising out of the award in MVC No. 588/2012, the Division Bench of this Court, to which I am a party, has found that the said finding of the Tribunal is improper. Having regard to the fact that the deceased in that case was aged 40 years and had left behind 7 dependents and keeping in mind the inflationary trends as also the cost of living during the year 2012, the Division Bench reckoned the daily income of the deceased at Rs. 250/-. In the case on hand, the deceased was aged 60 years and he has left behind the wife, one minor son, two major sons and two major daughters as well as the aged mother. Keeping in mind the age of the deceased, number of dependents he has left behind, as also regard being had to the cost of living and inflationary trends, it is just and proper to reckon the daily income of the deceased in this case at Rs. 200/- and the monthly income at Rs. 6,000/-. Accordingly, the monthly income of the deceased is taken at Rs. 6,000/- and 1/4th of this would be Rs. 1,500/-. Therefore, the monthly loss of dependency works-out to Rs. 4,500/-. Having regard to the age of the deceased, the appropriate multiplier as per the decision of the Apex Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , is ''9''. On this basis, the total loss of dependency works-out to Rs. 4,86,000/- (Rs. 4,500 x 12 x 9) as against Rs. 8,64,000/-.The rest of the award under the conventional heads is just and proper and does not warrant interference by this court. In the result, the appeal is allowed-in-part reducing the compensation payable under the head of loss of dependency to Rs. 4,86,000/- in place of Rs. 8,64,000/- awarded by the Tribunal. In all other respects, the award passed by the Tribunal is left undisturbed.

The amount in deposit in this court is ordered to be transmitted to the Tribunal concerned.

