

(2014) 09 KAR CK 0191

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 6346/2008 (MV)

The Managing Director

APPELLANT

Vs

Basappa

RESPONDENT

Date of Decision : 25-09-2014

Acts Referred:

Citation : (2014) 09 KAR CK 0191

Hon'ble Judges : B. Manohar, J

Bench : Single Bench

Advocate : I.C. Patil, Advocate for the Appellant; A.S. Patil, Advocate for the Respondent

Judgement

B. Manohar, J.—The Managing Director, North-West Karnataka Road Transport Corporation, Hubli, has filed this appeal challenging the judgment and award dated 28th January 2008 made in MVC No. 118/2001 passed by the Additional Motor Accident Claims Tribunal, Gadag (for short the "Tribunal").

2. Though the appeal is listed for admission, with the consent of the parties, it is heard finally and disposed off by this order.

3. For the sake of convenience, parties are referred to as per their rank before the Tribunal.

4. The claimant is the son of the deceased Smt. Ningamma. He filed claim petition in M.V.C. No. 118/2001 contending that on 15.05.2001, at about 6.50 a.m., his mother Smt. Ningamma after attending the second call of nature and returning to home, a KSRTC bus bearing registration No. KA-26/F 242, coming from Venkatapura to Hubli in a rash and negligent manner, dashed against Smt. Ningamma. Due to the said accident, she fell down and the wheel of the bus ran over on her stomach and head, as a result of which, she died on the spot. Prior to her death, she was working in a field earning more than Rs. 4,000/- per month and having lost the only earning member of the family, sought for compensation of Rs. 6,00,000/-.

5. The respondent-NWKRTC filed written statement denying the entire averments made in the claim petition and also denied the occurrence of the accident. It was contended that the bus had not met with an accident on the said date. The compensation claimed was excessive, exorbitant, unfounded, baseless and without any proper calculation and as such sought for dismissal of the claim petition.

6. On the basis of the pleadings of the parties, the Tribunal framed necessary issues. The claimant got himself examined as P.W. 1 and three other witnesses as P.Ws. 2 to 4 and got marked the documents as Exs. P.1 to P.7. On behalf of the respondents, the driver and the conductor of the bus of the respondent-Corporation were examined as R.Ws. 1 and 2 and a copy of judgment in C.C. No. 296/2001 was marked as Ex. R.1.

7. The Tribunal taking into consideration the oral and documentary evidence adduced by the parties held that due to rash and negligent driving of the KSRTC bus by its driver the accident had occurred and the claimant being the son of deceased was entitled to compensation. Taking into consideration the income of the deceased as Rs. 50/- per day, age of the deceased as 65 years, awarded a sura of Rs. 1,08,000/- towards loss of dependency and Rs. 14,000/- towards conventional heads, in all, Rs. 1,22,000/- with interest at 6% per annum from the date of claim petition till realisation, by its judgment and award dated 28.01.2008.

8. The appellant-NWKRTC being aggrieved by the said judgment and award of the Tribunal has filed this appeal mainly contending that the accident had not occurred on 15.05.2001. The passengers of the bus supported the case pleaded by the respondent. However, without any assigning valid reasons, the liability has been fastened on the appellant-Corporation which is contrary to law.

9. On the other hand, the advocate appearing for the respondent argued in support of the judgment and award and contended that P.W. 2 is the eye witness to the accident and, in his evidence, he has explained as to how the accident occurred. Though P.W. 2 was cross-examined by the appellant-Corporation, nothing contrary is elicited. On the basis of the oral and documentary evidence, the Tribunal has come to the conclusion that accident occurred due to rash and negligent driving of the bus and fastened the liability on the appellant-Corporation and hence, he sought for dismissal of the appeal.

10. I have carefully considered the arguments addressed by the parties, perused the judgment and award, and oral and documentary evidence.

11. The records of the Tribunal made available clearly discloses that due to rash and negligent driving of the KSRTC bus by its driver, the accident had occurred on 15.05.2001 at about 6.50 a.m. on Chincholi-Antur Bentur road. Immediately after the accident, on the complaint made by P.W. 2, police registered the case against the driver of the bus and the bus was seized at Annigeri Bus stop and brought over to the police station. P.W. 2 is an eye-witness to the accident. In his

evidence, P.W. 2 has clearly deposed as to how the accident had occurred. Though he has been cross-examined by the appellant-Corporation, nothing contrary was elicited. The evidence of P.W. 2, the eye-witness, coupled with the evidence of P.Ws. 3 and 4 and other relevant records clearly disclose that due to rash and negligent driving of the bus by its driver the accident had occurred.

12. With regard to the quantum of compensation awarded, the Tribunal has taken the income of the deceased as Rs. 50/- per day, applying the multiplier 9, awarded a sum of Rs. 1,08,000/- towards loss of dependency and Rs. 14,000/- towards conventional heads. The compensation awarded cannot be said to be exorbitant. On the other hand, for the death of a house-wife, the Tribunal has taken the income of Rs. 50/- per day which is on the lower side. However, the claimant has not preferred any appeal. Appellant-NWKRTC has not made out a case to interfere with the impugned judgment and award. Hence, I pass the following

ORDER

Appeal is dismissed. The judgment and award dated 28th January 2008 made in MVC No. 118/2001 passed by the Tribunal is hereby confirmed.

The amount in deposit be transmitted to the Tribunal.