(2015) 01 KAR CK 0540

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 1550/2014 and M.F.A. Crob. No. 97/2014 in M.F.A. No. 1550/14 (MV)

The Managing Director, K.S.R.T.C. — APPELLANT

Vs

M. Sriram Reddy and Others — RESPONDENT

Date of Decision : 09-01-2015

Acts Referred:

Citation : (2015) 01 KAR CK 0540

Hon'ble Judges : B. Sreenivas Gowda, J

Bench : Single Bench

Advocate : Shwetha Anand, for the Appellant; N.M. Pruthvi Raj, Advocates for the Respondent

Final Decision : Dismissed

Judgement

B. Sreenivas Gowda, J.

1. This MFA. No. 1550/14 is filed by the KSRTC challenging the quantum of compensation awarded by the Tribunal as excessive and seeking reduction of the same. MFA.CROB. No. 97/14 is filed by the claimant seeking enhancement of compensation.

2. As this appeal and cross-objection are arising out of the same judgment and award of the Tribunal, they are heard together and disposed of finally by this common judgment.

3. For the sake of convenience, the parties are referred to as they are referred to in the claim petition before the Tribunal.

4. As there is no dispute regarding death of deceased Bhaskar in a road traffic accident occurred on 28.5.2012 due to rash and negligent driving of KSRTC bus bearing No. KA-07-F-1137 by its driver and liability of the insurer of the said vehicle, the only point remains to be considered is,

"Whether quantum of compensation awarded by the Tribunal is just and reasonable or does it call for reduction or enhancement?"

5. Learned counsel appearing for the KSRTC submits that it is a case of death of a bachelor and the Tribunal has committed an error in applying the multiplier of ''18'' based on the age of deceased instead of applying the multiplier of ''14'' based on the age of younger parent i.e., mother who was 42 years old at the relevant point of time. She submits that even income of the deceased taken by the Tribunal at Rs. 4,500/- per month is also on the higher side. Therefore she prays for allowing the appeal and dismissing the cross-objection filed by the claimants.

6. Whereas the learned counsel appearing for the claimants submits that the deceased was studying in second year ITI course in Electrical Maintenance subject and while studying so he was working as Helper with M/s. Mithra Electricals and earning Rs. 6,000/- per month. The Tribunal has committed an error by taking his income at Rs. 4,500/- per month. He submits that there is no error committed by the Tribunal in applying the multiplier of ''18'' based on the age of deceased. Therefore he prays for allowing the cross objection filed by the claimant and dismissing the appeal filed by the KSRTC.

7. It is a case of death of a bachelor aged about 18 years. The claim petition is filed by his parents and younger brother. The claimants in support of their contention that the deceased was studying in final year ITI and by working as a helper with M/s. Mithra Electricals, he was earning Rs. 6,000/- per month have examined the second claimant-the mother of deceased as P.W. 1 and have produced his study certificate, SSLC marks card and salary certificate as Exs. P. 9 to P. 11. Ex. P. 9-study certificate shows that the deceased was studying in second year ITI in Electrical Maintenance subject at Balaji ITI. Ex. P. 10 shows he had passed SSLC with second class. Ex. P. 11 - salary certificate cannot be relied upon for the reason that the author of the salary certificate has not been examined as rightly contended by the learned counsel for KSRTC. However, considering that the claimant was aged about 22 years, the year of accident was 2012 and the fact that he was studying in second year ITI with Electrical Maintenance subject and passed SSLC with second class and keeping in mind his future prospects, his monthly income can be assessed at Rs. 7,000/- per month as against Rs. 4,500/- assessed by the Tribunal. As he died as a bachelor, 50% of his income has to be deducted towards his personal and living expenses. The multiplier of ''14'' has to be applied based on the age of his mother. Hence loss of dependency works out to Rs. 7000 x 1/2 x 12 x 14 = Rs. 5,88,000/- and it is awarded.

8. Appellant Nos. 1 and 2 are parents who have lost their son at the age of 22 years and claimant No. 3 has lost her brother. Therefore, a sum of Rs. 50,000/- is awarded towards conventional heads such as love and affection, transportation of dead body and funeral expenditure including loss of estate.

9. Thus the claimants are entitled to the following compensation:

Thus the claimants are entitled to total compensation of Rs. 6,38,000/- as against Rs. 5,23,000/- awarded by the Tribunal. The claimants are entitled to an additional compensation of Rs. 1,15,000/- with interest at 6% per annum from the date of the claim petition till realization.

10. Hence, the appeal filed by the KSRTC is dismissed as devoid of merits. The cross-objection filed by the claimants is allowed. The compensation awarded by the Tribunal is enhanced by Rs. 1,15,000/-.

11. The KSRTC is directed to deposit the additional compensation amount together with interest within two months from the date of receipt of a copy of this judgment. The amount deposited in appeal by the KSTRC is ordered to be transmitted to the Tribunal for disbursement to the claimant. The additional compensation has to be disbursed to the claimants in the ratio of the award of the Tribunal.

No order as to costs.