(2013) 08 KAR CK 0086

In the Karnataka High Court

Case No : MFA No. 4714 of 2008 (MV)

The National Insurance Co. Ltd. — APPELLANT

Vs

Yaregowda and Others — RESPONDENT

Date of Decision : 06-08-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A

Citation : (2013) 08 KAR CK 0086

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : A.N. Krishaswamy, for the Appellant; N. Gopalkrishna, for R1 and R2, for the Respondent

Final Decision : Partly Allowed

Judgement

B. Sreenivase Gowda, J.—This appeal is by the insurer of the offending vehicle seeking reduction of compensation awarded by the Tribunal. Heard the learned counsel appearing for the parties and perused the judgment and award of the Tribunal.

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

3. As there is no dispute regarding death of deceased in a road traffic accident occurred on 03.05.2006 due to rash and negligent driving of the offending tempo bearing registration No. KA-06 2238 by its driver and liability of the insurer of the offending vehicle, the only point that arises for my consideration in the appeal is:

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

4. After hearing the learned counsel appearing for parties and perusing the judgment and award of the Tribunal, I am of the view that the compensation awarded by the Tribunal is on the higher side and therefore the same is deserved

to be reduced.

5. The deceased was bachelor aged about 22 years at the time of his death in the accident. The parents of the deceased filed a claim petition seeking compensation u/s 163A of MV Act. Considering the age of the deceased as 22 years, year of accident as 2006 and his avocation as coolie, there is no impediment to assess his income can be easily at Rs. 40,000/- p.a. As per schedule II of the Act, 1/3rd of his income is to be deducted towards his personal expenses and remaining 2/3rd of his income is to be taken as his contribution to family and multiplier of ''15'' has to be applied based on the younger age of the parents i.e., mother, who was aged about 40 years at the relevant point of time. Therefore, the loss of dependency'' works out to Rs. 4,00,000/- (40000 x 2/3 x 15) and it is awarded as against Rs. 4,46,500/- awarded by the Tribunal.

6. Further, as Rs. 2,500/- awarded by the Tribunal towards loss of estate'' and Rs. 2,000/- awarded towards ''funeral and obsequies'' is as per Schedule II of the Act, the same is just and proper and there is no scope for reduction under these heads.

7. Thus, the claimants are entitled for the following compensation:-

8. Accordingly, the appeal is allowed-in-part. The judgment and award passed by the Tribunal is modified to the extent stated herein above. The claimants are entitled for total compensation of Rs. 4,04,500/- as against Rs. 4,46,500/- awarded by the Tribunal with interest at 6% p.a. from the date of claim petition till the date of realization. The compensation awarded by the Tribunal is reduced by Rs. 42,000/-.

9. The Insurance Company is directed to deposit the reduced compensation amount together with interest within two months from the date of receipt of a copy of this judgment, after deducting the amount, if any, already deposited. The amount in deposit is ordered to be transferred to the Tribunal for disbursement in favour of the, claimants in terms of the award of the Tribunal.

No order as to costs.