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Bhimappa and Another Vs. Govind and Another

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Court : Karnataka Gulbarga

Decided On : Mar-21-2013

Judge : Hulvadi G. Ramesh

Appeal No. : Miscellaneous First Appeal No.31062 of 2012 (MV)

Appellant : Bhimappa and Another

Respondent : Govind and Another

Judgement :

The Misc. First Appeal is filed under S. 173(1) of the M.V. Act against the judgment and award dated 12.12.2011 passed in MVC No.418/2009 on the file of the Motor Accident Claims Tribunal No.VII, Bijapur, partly allowing the claim petition and seeking enhancement of compensation.

The delay of 92 days in preferring the appeal is condoned subject to condition that the claimants are not entitled for interest on the enhanced amount if any, for the period of delay.

2. This appeal is arising out of the award passed by the MACT No.VII, Bijapur in MVC No.418/2009 on 12.12.2011.

3. On 14.08.2008 around 12.40 p.m., on Basavana Bagewadi - Muttagi road when deceased Kashinath was travelling on the motorcycle bearing No.KA-28/J-5770 with claimant in MVC No.416/2009, at that time an auto rickshaw bearing No.KA-

28/A-2776 came from opposite direction and causedthe accident. In the claim petition filed on the death of the deceased, the matter was contested, the Tribunal having raised as many as four issues for consideration, having held that the accident was due to negligence on the part of the driver of the auto-rickshaw in question, awarded total compensation of Rs.2,49,000/-. Being not satisfied, this appeal is by the claimants.

4. Heard.

5. The deceased was aged about 22 years as on the date of accident and was said to be earning more than Rs.6,000/- per month. Taking the income of the deceased around Rs.5,000/- per month, after deducting 50%, as the deceased was a bachelor, adopting the appropriate multiplier 13 taking the age of the mother of the deceased, the claimants are entitled for Rs.3,90,000/- towards loss of dependency and another Rs.40,000/- towards conventional heads. Thus, the claimants are entitled for Rs.4,30,000/- in modification of the award passed by the MACT No.VII, Bijapur in MVC No.418/2009 with interest @ 6% p.a. from the date of petition till deposit. Insurer to deposit the amount within three months.

Appeal is allowed in part.

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