

**Shantawwa Vs. the Managing Director Rep. by Its Divisional Controller and Others**

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**SooperKanoon Citation :** [sooperkanoon.com/1106987](http://sooperkanoon.com/1106987)

**Court :** Karnataka Dharwad

**Decided On :** Jan-16-2012

**Judge :** K. Sreedhar Rao & a.S. Bopanna

**Appeal No. :** MFA No. 15488 of 2007 (MV) C/W MFA No. 1357 of 2008

**Appellant :** Shantawwa

**Respondent :** The Managing Director Rep. by Its Divisional Controller and Others

**Judgement :**

(Prayer: This Appeal is filed under section 173(1) of M.V. Act 1988 against the judgment and award dated 07.07.2007 passed in MVC No. 1869/2001 on the file of the principal civil judge (Sr.DN.), and additional MACT, Belgaum, dismissing the claim petition for compensation and seeking enhancement of compensation.)

1. [A-1/2007 is allowed. Delay in filing the appeal is condoned.

2. One sadashiv Udadar died in a road traffic accident. The occurrence of the accident, negligence of the driver of the bus and coverage of insurance are not in dispute. The deceased left behind two wives, two children and a mother as legal representatives. The second wife of the deceased and mother had filed the petition seeking compensation. The first wife is the second respondent before the Tribunal.

3. The Tribunal has awarded compensation to first wife, children and mother and rejected the claim of second wife for share in the compensation. Therefore, the second wife is in appeal seeking share in the compensation and also for enhancement. The NWKRTC has filed an appeal challenging the compensation awarded is excessive.

4. The claimants have filed income tax returns for the assessment year 1999-2000 and 2000-2001. The returns are filed about six months after the accident. In the income tax returns, the income of the deceased is shown as Rs.81,950/- as the gross income. The income shown does not attract any income tax. As per the unit system 1/6th is to be deducted towards personal expenses and Rs.68,000/- would ensure to the benefit of the dependants. The total loss of dependency would be Rs.9,52,000/-(Rs.68,000/- x 14). The legally wedded wife is entitled to Rs.25,000/- towards loss of consortium. The claimants together are entitled to a sum of Rs.25,000/- towards loss of expectancy of life and Rs.10,000/- towards funeral expenses. In all, claimants are entitled to a total compensation of Rs.10,12,000/-.

5. The Tribunal has rejected the grant of share in the compensation to the second wife, which is not just and proper. The grant of compensation under Motor Vehicle Accident is the discretion of the Court and the Court need not necessarily be guided by the Rules under the Personal Law of Succession. There is no material before the Court to suggest whether the marriage of the appellant with the deceased was conscious bigamous marriage. The law under the Domestic Violence Act also recognizes grant of maintenance for a woman who was in live-in-relationship. In that context, denial of share in the compensation to the appellant does not appear to be sound and proper. The appellant, first wife, children and mother of the deceased are all entitled to equal share in the compensation awarded and entitled to interest at 6% p.a. on the enhanced compensation.

6. Accordingly, the appeal filed by the NWKRTC is dismissed. The appeal of the claimants allowed in part in terms indicated above.

The amount in deposit shall be transferred to the Tribunal for disbursement to the claimants.