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Court : Karnataka

Decided On : Sep-23-2015

Judge : S.N. Satyanarayana

Appeal No. : M.F.A.No. 942 of 2012 (MV)

Appellant : A.S. Kumar and Others

Respondent : The Manager, M/s. Sri Sham Gas House, Bangalore and Others

Judgement :

(Prayer: This MFA is filed under Section 173(1) of M.V. Act against the Judgment and award dated: 31.12.2009 passed in MVC No. 466/2008 on the file of additional MACT, and Fast Track Court, Hassan, partly allowing the claim petition for compensation and seeking enhancement of Compensation.)

1. The claimants in MVC No. 466/2008 on the file of MACT, Hassan, have come up in this appeal seeking enhancement of compensation for the death of the wife of first appellant and mother of appellants 2 and 3, who died in a road traffic accident dated 02.01.2008 involving Maruti Omni belonging to the first appellant and Canter goods vehicle belonging to first respondent and insured with second respondent. The accident dated 02.01.2008 is not in dispute. So also the death of Prameela, inmate of Maruti Omni bearing registration No. KA-03/MB-7715. It is

further not in dispute that the accident is caused due to rash and negligent driving of Canter goods vehicle bearing No. KA-52/2252. In the proceedings before the Tribunal, claimants contended that deceased Prameela who was aged about 29 years was a Computer Operator and earning a sum of Rs. 6,000/- p.m. as per Ex.P8 and sought for compensation in a sum of Rs. 20,00,000/-. In the said proceedings on behalf of the claimants, evidence was adduced by the husband of the deceased as PW1 and the author of Ex.P8 was examined as PW2. The Tribunal considering the evidence of PW2 accepted the employment of deceased Prameela and awarded compensation to claimants in sum of Rs. 5,58,400/-. Being aggrieved by the quantum of compensation, the appeal is filed along with an application in I.A. No. 1/2012 seeking condonation of inordinate delay of 543 days.

2. Heard learned Counsel for the appellants and perused the entire affidavit filed in support thereof. On going through the affidavit, it is seen that after the death of Prameela, maintaining the family was on the shoulder of deponent-Kumar M.S., who is first appellant and it is also stated that the deceased was contributing major part of her earning to the welfare of family. After her demise, it has affected the financial condition of family. The cumulative effect of all this, has resulted in the first claimant not being in a position to pursue the status of his claim petition before MACT. It is only recently i.e., prior to filing of the appeal when he contacted his Counsel he was informed that the compensation awarded is on the lower side and hence, appeal is required to be filed seeking enhancement of compensation. Accordingly, the appeal is filed with inordinate delay of 543 days.

3. Though the reasons stated in the affidavit cannot be accepted, on going through the pleadings and evidence, which is discussed as above, it is seen that the claimants have sought for compensation on the basis that deceased Prameela was working as Computer Operator. Accordingly, the claimants have lost substantial income to the family. The Tribunal believing the averments in the claim petition as well as the evidence of PW2 and Ex.P8 has awarded substantial compensation to claimants in a sum of Rs. 5,18,400/- towards Loss of Dependency.

4. When this Court went through the entire record, it is seen that the entire basis for claim petition itself is false. The police documents would indicate that at the time of accident, it is informed to the police that deceased was a housewife and nowhere it was mentioned that she was gainfully employed. However, in the claim petition entire thing is put in the manner to show that she was employed and earning a sum of Rs. 6,000/- p.m. This is kind of deceitful act was not required to be adopted by the claimants for the reason that, even assuming that deceased Prameela was not gainfully employed at the relevant point of time, the Court would have taken notional income as if she would have earned that money and awarded just and proper compensation.

5. In the instant case, there is deceitful method adopted by the claimants to claim excess compensation and the claimants have managed to secure the same in the Tribunal awarding compensation for Loss of Dependency to the tune of Rs. 5,18,400/- which appears to be more than just and proper.

6. In that view of the matter, this Court feel that there are no grounds to condone the delay. Hence question of considering the application for condonation of delay does not arise. Accordingly, the application in I.A. No. 1/2012 is dismissed. While doing so, it is also observed that even if the application is allowed, there would not have been any ground to enhance compensation. Therefore, the appeal is also dismissed.

7. While resting with this, this Court would observe that, there is rise in fraudulent claim petitions being filed. In this proceedings, it is seen that PW2 who has nothing to do with this proceedings has gone out of way to support the claimants before the Tribunal by issuing false certificate, which is at Ex.P8, in addition to that, he has stepped into witness box as PW2 to give false evidence to the effect that deceased Prameela, was working as Computer Operator in his Distribution Firm for more than two years prior to the date of accident. In fact, this is just one example where claimants are successful in producing such false certificate and getting fat compensation. There are several hundred such claim petitions filed on the basis of such false documents. What pains the Court is that the proceeding before the Court is taken as a joke and people particularly all and sundry think that

they can issue false certificate and by stepping into witness box with impunity could also give false evidence to substantiate the unjust claim of the victims of road accident to secure more compensation at the hands of the Court, thereby increase false litigation before Court. This has reduced the credibility of Courts, which gullibly accepted these kind of false evidence to award fat compensation to claimants.

8. Therefore, to put an end to this, steps are required to be taken to curb the same. The same will have to commence at some point of time and this Court would take this as a testing case and would direct the Superintendent of Police, Hassan, to initiate proceedings against Prakash Raj, who has created false certificate to be used in evidence, in a Court of law and further stepped into witness box to adduce evidence as PW2 in MVC No. 466/2008 on the file of MACT, Hassan. Therefore, appropriate proceedings should be initiated against him for forgery and creating false document and also for rendering false evidence before the Court. After initiating appropriate proceedings, the same should be informed to this Court within three months from this date.

9. A copy of this judgment is marked to the Superintendent of Police, Hassan, with a certified copy of Ex.P8 as well as evidence of PW2 and the same shall be sent to the Superintendent of Police Hassan, along with a copy of this judgment, to comply with the direction of this Court.

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