

**Vasanthi D. Shetty and Another Vs. The Managing Director, KSRTC and Another**

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**Court :** Karnataka

**Decided On :** Jul-22-2015

**Judge :** S.N. Satyanarayana

**Appeal No. :** MFA No. 4589 of 2011 (MVC)

**Appellant :** Vasanthi D. Shetty and Another

**Respondent :** The Managing Director, KSRTC and Another

**Judgement :**

(Prayer: This MFA filed u/s 173(1) of MV Act against the judgment and award dated:21.01.2011 passed in MVC No. 1259/2009 on the file of the presiding officer, Fast Track Court, Udupi, partly allowing the claim petition for compensation and seeking enhancement of compensation.)

1. Claimant in MVC NO. 1259/2009 on the file of MACT, Udupi, has come up in this appeal seeking enhancement of compensation for the death of Darshan Guru involving motorcycle bearing Registration No.KA.03 EB 6588 and KSRTC bus bearing Registration No.KA.01-F-8262. *f*

2. The accident which has taken place on 5.7.2009 at about 10.30 p.m. is not in dispute. It is also not in dispute that, in the said accident Darshan Guru succumbed to the injuries suffered therein. Thereafter, a claim petition was filed by

his mother and younger sister seeking compensation for his death. Normal practice in a case of death of a bachelor is to take the actual income or in the absence, notional income for consideration of compensation payable to the family as dependents. In case of death of unmarried children it is normally the parents who are treated as dependents. In the instant case, in addition to mother, the deceased has died leaving him surviving another younger sister aged about 21 years as on the date of accident and the important aspect which has to be considered in this matter is, even when the deceased Darshan Guru was alive prior to the accident, his father had already died and first claimant mother was a widow living on the income of the deceased. In addition to maintain the mother, the deceased had the responsibility of maintaining his younger sister also. In that view of the matter, the normal practice of taking 50% as the dependency to the family would not stand to reason in the instant case for the reason that there were three members in the family depending on the salary of deceased person. Therefore, in all fairness, the personal expenses of the deceased should be taken as 1/3rd out of his income and 2/3rd should be taken as dependency to the family which consists of his widowed mother and younger sister as on the date of death of the deceased.

3. However, when it comes to the multiplier is concerned; what is to be looked into is the dependency of the claimants on the income of deceased. In the instant case, the 2nd claimant sister would be dependent on him probably for another 4 to 5 years from the date of his death or until the date of her marriage. So far as the dependency of the mother of deceased is for some more years. Therefore, merely for the reason that the dependent sister was younger to deceased, the age of the deceased cannot be taken to arrive at proper multiplier to calculate the loss of dependency to the family for the simple reason that the sister would have lived with him maximum for another 4 to 5 years from the date of accident considering she was already 21 years of age.

4. Therefore, the Court should take the age of the mother to consider appropriate multiplier to calculate the compensation for loss of dependency and calculate the compensation payable to the claimant.

5. If that is done, in the instant case, claimant would be entitled to compensation under the loss of dependency is Rs.5,20,000/- (60,000 x 2/3 x 13). Since the deceased is a bachelor, under the conventional head, the compensation payable is Rs.60,000/-, which is towards transportation of dead body, funeral expenses and towards loss of love and affection to the mother and sister. With this, the claimants are entitled to a total compensation of Rs.5,80,000/-, in other words, they are entitled to receive enhanced compensation in a sum of Rs.2,38,000/-, which the claimants are entitled to recover along with interest at 6% per annum from the date of petition till the date of deposit.

6. Out of the enhanced compensation, mother is entitled for a sum of Rs. 1,38,000/- with 6% interest and sister is entitled for Rs. 1,00,000/- with 6% interest. From out of the compensation awarded to the sister, same shall be deposited in any nationalized bank for a period of 5 years which is payable along with interest. If the marriage of the 2nd appellant has to take place any time subsequent to deposit and before expiry of 5 years, the 2nd appellant is at liberty to file an application seeking release of the same. As and when such application is filed, the said amount shall be released by the Tribunal without seeking further clarification.

7. From out of the compensation awarded to the mother, Rs. 1,20,000/- with proportionate interest shall be deposited in any nationalized bank for a period of five years with a right to receive interest and balance amount shall be released in her favour to meet her immediate domestic and other expenses.

Accordingly, this appeal is allowed in part.

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