

Shanthi and Others Vs. The Divisional Manager, KSRTC Depot, Hassan District

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Court : Karnataka

Decided On : Feb-22-2016

Judge : N.K. Patil & The Honourable Mrs. Justice Rathnakala

Appeal No. : M.F.A.No. 10361 of 2013 (MV)

Appellant : Shanthi and Others

Respondent : The Divisional Manager, KSRTC Depot, Hassan District

Judgement :

N.K. Patil, J.

1. Though this matter is posted today in orders list, with the consent of learned counsel appearing for both the parties, the same is taken up for final disposal.

This appeal by the appellants-claimants is directed against the impugned judgment and award dated 18-8-2011, passed in MVC No. 71/2010, by the Senior Civil Judge and Motor Accident Claims Tribunal, Belur, (hereinafter referred to as Tribunal for short), for enhancement of compensation, on the ground that, a sum of Rs. 7,90,000/- awarded by the Tribunal under different heads with interest at 6% per annum from the date of petition till deposit, as against the claim Rs. 35.00.000/- on account of the death of the deceased Sri. Manjunath, in the road

traffic accident is inadequate.

2. In brief, the facts of the case are :

The appellants are the wife, minor children and mother of the deceased. They filed a claim petition before the Tribunal under Section 166 of M.V. Act, claiming compensation against the respondents, on account of the death of the deceased in the road traffic accident, contending that, on 15-2-2010 at about 4.45 p.m. deceased was travelling as a pillion rider in the Motorcycle bearing Reg. No. KA.18.Q.4142 driven by one Chandrasekhar and when they were proceeding on Hassan-Arakalgudu road near Kattaya forest, Hulihalli gate, at that time, the driver of KSRTC bus bearing Reg. No. KA.13.F. 1603 came in a rash and negligent manner and dashed against the motorcycle. Due to which, deceased sustained grievous injuries and died on the spot. It is the further case of the appellants that, deceased was aged about 34 years, hale and healthy prior to the accident, Pork vendor by profession and earning Rs. 1.00.000/- per month and looking after the welfare of the family by contributing his entire earnings to the family.

3. The said claim petition had come up for consideration before the Tribunal. The Tribunal, after appreciating the oral and documentary evidence and other material available on file, has allowed the claim petition in part and awarded the compensation of Rs. 7,90,000/- under different heads with interest at 6% p.a., from the date of petition till its deposit.

4. Being dissatisfied with the quantum of compensation and the rate of interest awarded by the Tribunal, the appellants have presented this appeal, for enhancement.

5. We have heard the learned counsel appearing for the appellants and learned counsel for respondent-Corporation.

6. The submission of the learned counsel appearing for the appellants, at the outset is that, the Tribunal has committed an error in not awarding reasonable compensation towards loss of dependency on account of the death of the deceased in the road traffic accident, on the ground that, deceased was the only

earning member in the family aged about 34 years and doing Pork vending business in Belur town and unfortunately, he succumbed to the injuries sustained in the road traffic accident. Therefore, he submitted that the income of the deceased may be re-assessed between Rs. 7,000/- to Rs. 7,500/- per month, after deducting th towards personal and living expenses any applying 16 multiplier, reasonable compensation may be awarded towards loss of dependency. Further he submits that the compensation awarded by the Tribunal towards conventional heads and the rate of interest awarded at 6% p.a. is on the lower side and contrary to the law laid down by the Apex Court and this Court. Therefore, he submitted that the impugned judgment and award is liable to be modified by awarding reasonable compensation.

7. As against this, learned counsel appearing for respondent-Corporation, inter alia, contended and substantiated that the impugned judgment and award passed by the Tribunal is just and proper and after due appreciation of the oral and documentary evidence available on file and therefore, it does not call for interference.

8. After hearing learned counsel appearing for the parties and after careful perusal of the material available on record at threadbare, including the impugned judgment and award passed by the Tribunal, the only point that arises for our consideration is :

Whether the compensation awarded by the Tribunal is just and reasonable?

9. Occurrence of the accident and the resultant death of the deceased are not in dispute. It is the case of the appellants that deceased was aged about 34 years, hale and healthy prior to the accident, only earning member in the family and doing Pork vending business in Belur. The dependants are his wife, minor children and other. The Tribunal, has assessed the income of the deceased at Rs. 5,000/- per month, which is on the lower side and is liable to be enhanced. Having regard to the age, occupation of the deceased and the year of accident, we re-assess his income Rs. 7,000/- per month to meet the ends of justice instead of Rs. 5,000/- per month as assessed by the Tribunal. Out of which, if th (Rs. 1.750/-) is deducted towards the personal and living expenses of the deceased, his

contribution to the family comes to Rs. 5,250/- per month. The proper multiplier applicable is 16 since deceased was aged about 34 years as rightly adopted by the Tribunal in view of the law laid down by the Apex Court in Sarla Verma s case. Therefore, we determine the loss of dependency at Rs. 10,08,000/- (Rs. 5, 250/- x 12 x 16) instead of Rs. 7,90,000/- as awarded by the Tribunal and accordingly, it is awarded.

10. The compensation awarded towards conventional heads and 6% interest awarded by the Tribunal is on the lower side as rightly submitted by the learned counsel appearing for appellants. The same is liable to be enhanced, having regard to the fact that on account of the untimely death of the deceased, who was the only earning member in the family, appellant No. 1, wife, has lost her companion at her young age of 25 years, appellant Nos. 2 to 4, minor children are deprived of the love and affection, guidance and security of their father and appellant No. 4 mother of the deceased has lost the love and affection and security of her son. Therefore, having regard to the facts and circumstances of the case and in the light of the law laid down by the Apex Court and this Court, we deem it fit to award a sum of Rs. 1,00,000/- towards loss of consortium, Rs. 1,25,000/-towards loss of love and affection at the rate of Rs. 25,000/- to the each of the appellant Nos. 1 to 5, Rs. 25,000/- towards loss of estate and Rs. 25,000/- towards transportation and funeral expenses. In all, the appellants are entitled to a total compensation of Rs. 12,83,000/- instead of Rs. 7,90,000/- as awarded by the Tribunal.

11. Regarding rate of interest, as rightly pointed out by the learned counsel appearing for the appellants, 6% interest per annum awarded by the Tribunal is on the lower side, since the accident is of the year 2010. In the light of the judgment of Apex Court and this Court, we award the rate of interest at 8% per annum on the enhanced compensation instead of 6% awarded by the Tribunal.

There would be an enhancement of Rs. 4,93,000/- with interest at 8% p.a., on the enhanced compensation awarded from the date of petition till its realisation (excluding interest for the delayed period of 755 days in filing the appeal).

12. For the foregoing reasons, the appeal filed by the appellants is allowed in part. The impugned judgment and award dated 18-8-2011, passed in MVC No. 71/2010, by the Senior Civil Judge and Motor Accident Claims Tribunal, Belur, is hereby modified, awarding a sum of Rs. 4,93,000/- in addition to the compensation awarded by the Tribunal, with interest at 8% p.a., from the date of petition till its realisation (excluding interest for the delayed period of 755 days in filing the appeal).

Respondent-Corporation is directed to deposit the enhanced compensation with interest at 8% p.a., from the date of petition till its realisation (excluding interest for the delayed period of 755 days in filing the appeal), within a period of three weeks from the date of receipt of a copy of this judgment.

Immediately on such deposit by the respondent-Corporation, out of the enhanced compensation of Rs. 4,93,000/-, a sum of Rs. 1,00,000/- with proportionate interest shall be invested in the Fixed Deposit in the name of appellant No. 1, wife of the deceased, in any Nationalized or Scheduled or Grameena Bank, for a period of 5 years, renewable by another 5 years, with liberty reserved to her to withdraw the interest accrued on it, periodically.

Out of the remaining amount of Rs. 3,93,000/-, a sum of Rs. 50,000/- each with proportionate interest shall be invested in the Fixed Deposit in the names of each of the appellant Nos. 2 to 4, in any Nationalized or Scheduled or Grameena Bank, till they attain 30 years, with liberty reserved to the appellant No. 1 to withdraw the interest accrued on it, till they attain 22 years for their welfare and from 23 years to 30 years, they are at liberty to withdraw the interest accrued on it, periodically.

A sum of Rs. 50,000/- with proportionate interest shall be invested in the Fixed Deposit in the name of appellant No. 5, mother of the deceased, in any Nationalized or Scheduled or Grameena Bank, for a period of 05 years, with liberty reserved to her to withdraw the interest accrued on it, periodically.

Remaining sum of Rs. 1,93,000/- with proportionate interest shall be released in favour of the appellant Nos. 1 and 5 in equal proportion immediately.

Drawn the award accordingly.

Appeal partly allowed.

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