

Shruti vs the Managing Director

Shruti vs the Managing Director

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Court : Karnataka Dharwad

Decided On : Feb-29-2024

Judge : Vijaykumar a.Patil

Appeal No. : MFA/100564/2021

Appellant : Shruti

Respondent : The Managing Director

Judgement :

-1- IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH DATED THIS THE 29TH DAY OF FEBRUARY, 2024 BEFORE THE HON'BLE MR JUSTICE VIJAYKUMAR A.PATIL MISCELLANEOUS FIRST APPEAL NO. 100564 OF 2021 (MV-D) BETWEEN:

1. SMT. SHRUTI W/O. NANDAN HEGADE, AGE: 22 YEARS, OCC: HOUSEHOLD.

2. KUM. AISHWARYA G. D/O. A.P. RAJU, AGE: 19 YEARS, OCC: STUDENT, BOTH ARE R/O. MOGEGAR, POST: TYARSI, TQ: SIDDAPUR, DIST: KARWAR (UK)-581335. APPELLANTS (BY SRI. HARISH S. MAIGUR, ADVOCATE) AND:

1. THE MANAGING DIRECTOR, VRL LOGISTICS LIMITED, VARUR,
TQ: HUBBALLI, DIST: DHARAWAD-581207.

2. THE BRANCH MANAGER,

UNITED INDIA INSURANCE CO. LTD, ROHAN HADIMANI MOKTALI BUILDING,
HANGAL ROAD, T OPP: KSRTC BUS STOP, HAVERI-58111. Digitally signed by
ROHAN HADIMANI T RESPONDENTS Date: 2024.03.05 11:13:46 +0530

(BY SRI. S. S. KOLIWAD, ADV. FOR R2; NOTICE TO RESPONDENT
NO.1 SERVED) THIS MISCELLANEOUS FIRST APPEAL IS FILED
U/S.173 (1) OF MOTOR VEHICLES ACT, PRAYING TO ENHANCE
THE COMPENSATION BY MODIFYING THE JUDGMENT AND AWARD
PASSED IN M.V.C NO.692/2018, ON THE FILE OF SENIOR CIVIL
JUDGE AND MACT, HANGAL AT: HANGAL, DATED 06/10/2020 BY
ALLOWING THIS APPEAL WITH COST, IN THE INTEREST OF
JUSTICE AND EQUITY. THIS APPEAL, COMING ON FOR
ADMISSION, THIS DAY, THE COURT DELIVERED THE FOLLOWING:
-2-

JUDGMENT

This appeal is filed by the appellant challenging

judgment and award dated 06.10.2020 in MVC

No.692/2018 passed by Senior Civil Judge and Additional MACT, Hangal (for
short, Tribunal).

2. Brief facts of the case are that: On 16.04.2018 at about 5.15 a.m., when
deceased

was traveling as fair paid passenger in VRL Bus bearing registration No.Ka-25/D-
1116 from Bengaluru to Siddapur. The driver of the offending bus drove in high
speed, rash and negligent manner and lost his control over the vehicle and dashed

to the tree on road side. Resulting in deceased sustained fatal injuries and died on the spot.

3. It is averred that the deceased was aged about

48 years at the time of her death and she was working as rider flat former in Shadowfax Technologies Pvt. Ltd., Bengaluru, she used to earn Rs.15,000/- per month. Deceased was only bread earner of her family, due to -3- death of deceased appellants who being dependants have lost their better future as her husband was already died prior to the above said incident.

4. The respondent appeared before the Tribunal

and filed objections. It is specifically denied that as on the date of accident, the offending vehicle was drove by the driver of the respondent No.1 without having valid and effective driving license and they have denied age, occupation and income of the deceased including the expenses incurred and sought for dismissal of claim petition.

5. To prove the claim, the appellants examined two witness as PW1 and 2 and got marked Exs.P1 to P13. The respondent with the consent got marked as Ex.R1- Insurance copy.

6. The Tribunal after analyzing the evidence

available on record has awarded total compensation of Rs.15,26,000/- along with interest at the rate of 9% per annum from the date of petition to till realization. Being -4- aggrieved by the award of compensation, the claimants are before this Court in the present appeal seeking for enhancement of compensation.

7. Heard Shri. Harish S. Maigur learned counsel appearing for appellant and Shri. S.S. Koliwad learned counsel appearing for respondent No.2.

8. Shri. Harish S. Maigur learned counsel

appearing for appellant submits that the Tribunal has committed grave error in assessing the income of the deceased at Rs.10,000/- which is contrary to the

pleading evidence of PW2 and Ex.P8. It is submitted that the award of compensation by the Tribunal on other heads are also on lower side and seeks to enhance the same.

9. Per contra, Shri. Hanumanthareddy Sahukar

learned counsel appearing for respondent No.1 supports the impugned judgment of the Tribunal and submits that Tribunal has justified in assessing the income of deceased and award of compensation by the Tribunal on other heads -5- are also just and proper and does not call for any enhancement. Hence, he seeks to dismiss the appeal.

10. Having heard learned counsel for the parties and on perusal of memorandum of appeal, impugned

judgment and Tribunal records. The only point that arises

for consideration in this appeal is whether the appellants/claimants are entitled for the enhancement of compensation?

11. Answer to the above point would be in the affirmative for the following reasons.

12. The parties to the proceeding does not dispute

that the mother of the appellant succumbed to the injuries in a road accident dated 16.04.2018. It is also not in dispute that the vehicle involved in the accident was insured with the respondent company. In support of the claim petition, the appellant No.1 examined herself as PW1 and produced her salary certificate at Ex.P8 by contending that her mother was working as Shadowfax Technologies

Pvt. Ltd. at Bengaluru and was drawing salary of -6-

Rs.11,475/- per month. In support of the income claimed, the employee of the aforesaid company have been examined as PW2. She also has supported the claim of the appellant and stated that the deceased was drawing salary of Rs.11,475/-. Taking into account the evidence of PWs1, 2 and Ex.P8. This Court is of the considered view that the Tribunal committed error in assessing income of

the deceased at Rs.10,000/- per month. This Court taking note of the evidence available on record, assessed income of the deceased at Rs.11,475/- per month for the purpose

of determination of compensation. Thus, the claimant would be entitled to modified compensation under the head of future loss of income due to disability as under: $\text{Rs.11,475} + 25\% \times 12 \times 14 \times \frac{2}{3} = \text{Rs.16,06,500/-}$

13. The Tribunal has justified in awarding

compensation under the head of loss of future prospects and correctly applied multiplier and deductions which does not call for any interference. The Tribunal has awarded Rs.70,000/- under the Conventional head. This Court is of the considered view that Tribunal has committed an error -7- in awarding the aforesaid amount on the Conventional head. The appellants being the daughters are entitled to Rs.44,000/- each under the head of parental consortium and Rs.33,000/- under the head of funeral expenses and loss of estate including 10% escalation for three years.

14. Thus, the claimant would be entitled to total compensation on the following heads: HEADS AMOUNT (in Rs.)

Towards loss of Dependency	16,06,500/-	Funeral e
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15. Thus, the claimant shall be entitled to total compensation of Rs.17,27,500/- as against Rs.15,26,000/- awarded by the learned Tribunal.

16. In the result, this Court proceeds to pass the following: -8-

ORDER

a) Appeal stands allowed in part. b) The impugned judgment and award of the Tribunal is modified to an extent that the claimant would be entitled to total compensation of Rs.17,27,500/- as against Rs.15,26,000/- awarded by the Tribunal. c) The compensation at the rate of 6% per annum from the date of petition till the date of payment. d) The Insurance

Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of six weeks from today. e) Apportionment, disbursement and deposit shall be made as per award of the Tribunal. f) Draw modified award accordingly.

Sd/- JUDGE RKM, List No.: 1 SI No.: 47

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