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Nagayya vs the Divisional Controller

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Court : Karnataka Kalaburagi

Decided On : Dec-19-2024

Judge : Sachin Shankar Magadum

Appeal No. : MFA/201467/2021

Appellant : Nagayya

Respondent : The Divisional Controller

Judgement :

-1- IN THE HIGH COURT OF KARNATAKA, KALABURAGI BENCH DATED THIS THE 19TH DAY OF DECEMBER, 2024 BEFORE THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM MISCL. FIRST APPEAL NO. 201467 OF 2021 (MV-D) BETWEEN:

1. NAGAYYA

S/O GURLINGAYYA MATHAPATTI AGE 55 YEARS, OCC. PUJARI R/O DONGARGAON NOW AT SHIV NAGAR, NORTH BIDAR TQ AND DIST BIDAR. APPELLANT (BY SRI. SANDEEP VIJAYKUMAR, ADVOCATE) AND:

1. THE DIVISIONAL CONTROLLER NEKRTC BIDAR DIVISION BIDAR-585 401. Digitally signed by RESPONDENT AL BHAGYA Location: HIGH COURT OF (BY SRI. SHARANABASAPPA M. PATIL, ADVOCATE) KARNATKA

THIS MFA IS FILED U/S 173(1) OF MV ACT, BY THE ADVOCATE FOR APPELLANT, PRAYING TO CALL FOR THE RECORDS IN MVC NO. 634/2017 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE AND ADDL. MACT AT BIDAR, TO MODIFY THE JUDGMENT AND AWARD DATED 01.04.2019 PASSED IN MVC NO. 634/2017 ON THE FILE COURT OF THE ADDITIONAL SENIOR CIVIL JUDGE AND ADDL. MACT AT BIDAR AN ETC THIS APPEAL, COMING ON FOR ORDERS, THIS DAY,

JUDGMENT WAS DELIVERED THEREIN AS UNDER:

-2- CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM) The captioned appeal is filed by the husband of the deceased questioning the quantum determined by the Tribunal in MVC.No.634/2017. The petition is purely on quantum since the respondent/Corporation has admitted its liability.

2. Appellant filed a claim petition for having lost

his wife in a road traffic accident dated 8.3.2017. The Tribunal having held that the driver of the offending bus was negligent and was responsible for the accident has strangely proceeded to award global compensation of Rs.1,00,000/- though the claim petition is filed seeking compensation on account of death of appellant's wife.

3. On perusal of the judgment under challenge, this Court is of the view that the method adopted by the Tribunal is fraudulent. Appellant who has lost his wife has filed the claim petition seeking compensation. Tribunal -3-

was required to determine compensation bearing in mind the dependency of appellant on his wife both emotionally and financially. Therefore, the finding and the manner in which compensation is determined globally without

adverting to the facts of the case renders the judgment

erroneous.

4. Though appellant claims that deceased was

earning Rs.18,000/- per month, this Court has noticed that no documentary evidence is produced to substantiate the income of the deceased. Accident is of the year 2017. Therefore, this Court is inclined to place reliance on the income chart prepared by the KSLSA. Accordingly, income is assessed at Rs.10,250/- and by adding 10%, the

income is notionally assessed at Rs.11,275/-. After deducting 1/3rd which works out to Rs.7516.67 and applying the multiplier of 11, compensation determined under the head of loss of dependency works out to (Rs.7516.67 x12 x11) to Rs.9,92,200/-. -4-

5. Under the conventional heads, appellant is

entitled for Rs.70,000/-. Hence, the total compensation re-determined by this Court works out Rs.10,62,200/- as against Rs.1,00,000/- awarded by the Tribunal. Thus, the enhanced compensation works out to Rs.9,62,200/-, which the appellant is held entitled with interest at 6% p.a. from the date of petition till its realization.

6. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

(i) The appeal is allowed in part.

(ii) The impugned judgment and award dated 1.4.2019 passed by the Tribunal in MVC.No.634/2017 is hereby modified.

(iii) The appellant/claimant is held entitled for the enhanced compensation of Rs.9,62,000/- with interest at the rate of 6% p.a. from the date of petition till its realization. -5-

(vi) The amount in deposit shall be remitted to the Tribunal to enable the claimant to withdraw the same. Sd/- (SACHIN SHANKAR MAGADUM) JUDGE ALB List No.: 1 Sl No.: 31

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