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**Subbamma and Another Vs. Narayanappa and Others**

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**SooperKanoon Citation : [sooperkanoon.com/380238](http://sooperkanoon.com/380238)**

**Court : Karnataka**

**Decided On : Mar-28-2000**

**Reported in : II(2000)ACC565; 2001ACJ269; ILR2000KAR1806; 2000(4)KarLJ76**

**Judge : Kumar Rajaratnam, J.**

**Acts : [Motor Vehicles Act, 1988](#) - Sections 163-A**

**Appeal No. : Miscellaneous First Appeal No. 5304 of 1998**

**Appellant : Subbamma and Another**

**Respondent : Narayanappa and Others**

**Advocate for Def. : Sri R. Jai Prakash, Adv.**

**Advocate for Pet/Ap. : Sri H.R. Jayaram, Adv.**

**Judgement :**

Acts/Rules/Orders:

[Motor Vehicles Act, 1988](#) - Section 163-A

Cases Referred:

U.P. State Road Transport Corporation v. Trilok Chandra and Others, ILR 1996 Kar. 2127 (SC), 1996(2) Cur. CC 344 (SC); Smt. Puttamma and Another v. D.V. Krishnappa and Another, 1999(5) Kar. L.J. 22, ILR 1999 Kar. Sh.N. 69

## JUDGEMENT

1. Admit. The appeal is taken up with the consent of the parties.
2. The appellant being aggrieved by the judgment and award in M.V.C. No. 70 of 1995 has preferred this Miscellaneous First Appeal. The deceased was aged about 30 years. The Tribunal granted a sum of Rs. 50,000/- as compensation with interest at 6%. The claimants were mother and brother. The mother is aged about 58 years old. The learned Counsel for the appellant submitted that the deceased was doing agricultural work as well as milk vending business. The Tribunal held that the evidence given by the appellants cannot be accepted and came to the conclusion that the deceased must have been earning Rs. 30/- or 40/- per day. The Tribunal determined the monthly income of Rs. 1,000/- and 50% of the amount was deducted and multiplier of 8 was applied which came to Rs. 50,000/-. It was submitted by the learned Counsel for the appellant that if the Second Schedule of the [Motor Vehicles Act, 1988](#) is applied, the proper multiplier will be 17 and if that is taken into account, the total compensation would come to Rs. 1,02,000/-. The learned Counsel for the respondent Mr. R. Jai Prakash strenuously submitted that the distinction made between the claimant as determined in U.P. State Road Transport Corporation v Trilok Chandra and Others, still prevailed after the amendment. In this case, the accident took place on 22-6-1998. The amended Act came into force on 1-7-1989 and the Second Schedule on 14-11-1994. In this case, admittedly, both the Act as well as the Second Schedule came into force prior to the accident. The next question that arises for consideration is whether notwithstanding anything stated in the Second Schedule, a different yardstick can be used if the claimant is the wife and children of the deceased or if the claimant is the elderly parent of the deceased. There is no answer to this question. In the judgment of the Supreme Court in Trilok Chandra's case, supra, the Supreme Court has dealt with the matter by holding that if aged parents are the claimants they would be entitled to a lesser multiplier than if the claimants are the wife and children. It all depends, according to the Supreme Court, on the age of the claimant. But, there is nothing in the Second Schedule to indicate that different multiplier ought to be used depending on the age of the claimant. This question however, need not be gone into in this appeal,

for the simple reason that even if the multiplier is applied, the appellant would be entitled to compensation of only Rs. 1.00 lakh. There is also another judgment which is brought to the notice of this Court in Smt. Puttamma and Another v D.V. Krishnappa and Another , the Division Bench of this Court granted a sum of Rs. 1,50,000/- on the basis of a notional income with respect to the deceased aged about 14 years. However, it would be appropriate in this case to grant a total damages of Rs. 1.00 lakh + Rs. 20,000/- as solace. The total compensation would be determined as Rs. 1,20,000/-. The respondent is directed to deposit the enhanced amount at 9% interest from the date of this order till the date it is deposited before the Tribunal. The award is modified accordingly.

Miscellaneous First Appeal is disposed of according.

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