

Smt. Puttamma and Another Vs. D.V. Krishnappa and Another

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Court : Karnataka

Decided On : Jun-15-1999

Reported in : 2000ACJ103; 1999(5)KarLJ22

Judge : G.C. Bharuka and ;Mohamed Anwar, JJ.

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

Appeal No. : Miscellaneous First Appeal No. 1886 of 1999

Appellant : Smt. Puttamma and Another

Respondent : D.V. Krishnappa and Another

Advocate for Def. : Sri H.G. Ramesh, Adv.

Advocate for Pet/Ap. : Sri S. Basavaraj, Adv.

Judgement :

1. Heard the learned Counsel for the appellant and Mr. H.G. Ramesh for respondent-Insurance Company.

2. The parents of one Andanaiah aged about 14 years have approached this Court for enhancement of compensation granted by the Tribunal because of the death of the said boy. Andanaiah had died because of the rash and negligent driving of the driver of lorry bearing registration No. CAM 195. The lorry ran over the deceased student on 19-11-1996 when he was proceeding towards his school on his bicycle.

The lorry was insured with the second respondent-Oriental Insurance Company Limited. The Tribunal under the impugned judgment and award has granted compensation of Rs. 1,00,000/- towards the loss of companionship, pain and mental agony suffered by the appellants being the parents of the deceased and Rs. 5,000/- towards funeral expenses.

3. The Counsel for the appellants states that keeping in view the judgment of the Supreme Court in the case of Haji Zainullah Khan (dead) by L.Rs v Nagar Mahapalika, Allahabad, the Tribunal ought to have awarded compensation of at least Rs. 1,50,000/- for loss of child to the family. On the other hand, Sri Ramesh relies on a judgment in the case of General Manager, K.S.R.T.C. and Another v Yellappa Dharmoji Kittur and Another , In the latter case, this Court had the occasion to deal with the grant of compensation in the case of death of young children. Though the question regarding grant of compensation on account of alleged loss of dependency was negatived, this Court did not say that no compensation at all can be awarded for the death of a child because of motor accident. This Court has said that awards are made in such cases in merely conventional sums. Paragraph 4 of the judgment reads as under:

'4. It is no doubt true that in cases of very young children, no basis exists for estimating the future pecuniary benefits which the parents could be said to have lost by the death. The prospects of employment and of financial assistance, to the parents who look up to their dutiful and grateful children, are so remote in the future that any estimates tend to become mere speculative possibilities than reasonable probabilities. Such estimates of chances of future monetary contributions to the parents are pressed into extinction by multiple uncertainties and imponderables of the future. It is, therefore, that awards are, made in such cases in merely conventional sums. By these tests no award can, in the case of very young children, be made for loss of future pecuniary benefits'.

4. Therefore, Sri Ramesh is not correct in saying that when a non-earning member of the family, may be a child of 14 years or 20 years suffers death because of the road accident, the loss suffered by the family is not required to be compensated. The compensation, no doubt, will be more in the nature of a money solace. But,

nonetheless, it needs to be quantified.

5. In the case of Haji Zainullah Khan, supra, the Supreme Court, while dealing with the question of compensation payable in respect of a student of 14 years, has held that Rs. 1,50,000/- will be a just compensation. We can take this to be the conventional amount for awarding compensation for non-earning members of the family like the young children and students. This view of ours now finds support from the Schedule II to the [Motor Vehicles Act, 1988](#) which provides that notional income for the purpose of compensation to those who had no income can be taken to be Rs. 15,000/- per annum out of which 1/3 has to be deducted for notional personal expenses and thereafter on application of appropriate multiplier, the compensation can be ascertained. The multiplier for the children aged upto 15 years has been set out as '15'. On applying the same, the compensation payable in case of the children upto 15 years will come to Rs. 1,50,000/-.

6. Therefore, we enhance the compensation by Rs. 50,000/-. So, the total compensation payable will be Rs. 1,50,000/-. It is stated that the originally awarded amount has already been deposited. If that be so, the enhanced amount with interest at 6% per annum from the date of petition till payment should be deposited by the respondent-Insurance Company within one month from today. Thereafter, it shall be invested in long term Fixed Deposits in the name of the appellants in terms of the directions of the Supreme Court in the case of General Manager, KeralaState Road Transport Corporation, Trivandrum v Mrs. Susamma Thomas and Others. The amount of compensation awarded by the Tribunal with accrued interest, if not already permitted to be withdrawn, shall be placed in long term Fixed Deposits keeping in view the guidelines laid down by the Supreme Court in the case of General Manager, Kerala State Road Transport Corporation, supra, and the appellants would be permitted to withdraw the quarterly interest thereof.

The appeal is allowed as stated above. No costs.