

M. Subramanyam and ors. Vs. General Manager, K.S.R.T.C.

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Court : Karnataka

Decided On : Jan-27-2003

Reported in : II(2003)ACC533

Judge : M.F. Saldanha and; M.S. Rajendra Prasad, JJ.

Appellant : M. Subramanyam and ors.

Respondent : General Manager, K.S.R.T.C.

Judgement :

M.F. Saldanha, J.

1. Appellants' learned Counsel has raised a strong plea that the evidence of the husband who is P.W. 1 must be accepted and that the computation for purposes of loss of dependency must be based on this evidence and the reason for the submission is because there is virtually no cross-examination nor has it been established that the contention of the husband that the wife was earning Rs. 3,500/- per month should be rejected. His submission is that this is an unusual case where the wife was supplementing the family income by doing various handicrafts at home and earning Rs. 3,500/- per month for which there can be no other supportive evidence other than the husband's statement, but his submission is that if the evidence is uncontroverted that a Court should not refuse to accept it.

2. Digressing here for a moment, we need to observe that there is much substance in the submission canvassed insofar as in law, there is no reason why uncontroverted evidence on oath should not be relied, upon by the Court. Normally, we would have accepted this submission and straightaway drastically enhanced the compensation, but we need to once again, with a degree of both pain and anger refer to the performance of the lawyers appearing before the Motor Accident Claims Tribunals, particularly in this category of cases. Undoubtedly the claimants are persons of very ordinary status but more importantly, the lawyers obviously take no interest in their cases because their paying capacity is very poor. We have repeatedly pointed out that a member of the Bar owes a sacred duty to the litigant and this duty becomes far higher when the litigant happens to be a person from the weaker sections of the society. Lawyers are not expected to function as parasites and it is better that they understand that if they are not willing to undertake the elementary work with honesty and professionalism in this class of cases, that they shall not take them up. In this case where the contention raised was that the deceased wife was earning Rs. 3,500/- per month by producing handicrafts, it was absolutely incumbent upon the learned Advocate who conducted the proceeding to have produced some elementary supportive evidence such as any documents on bills or records in relation to this business, details and items, purchased or raw materials used, some evidence oral or documentary with regard to the sales that were effected, to whom and for how much, all of which could easily have been substantiated if the plea was true. Before the Court acts, on a bald statement which may or may not be correct, some documentary supportive evidence in cases of this type is essential and that is the reason why we are unable to accept the contention of the appellants' learned Advocate and are unable to award the amount that has been asked for in appeal.

3. At the same time, we need to take note of the fact that this is a fatal accident case and the amount of compensation awarded is abnormally meagre. Since it is difficult for us to assess what would be a fair figure we can only adopt the global compensation formula and raise the amount awarded under head Na 1 from Rs. 13,500/- to Rs. 50,000/-. The other additions which aggregate Rs. 13,000/- stand enhanced to Rs. 15,000/-. The aggregate compensation will, therefore, amount to Rs. 65,000/- and we also raise the rate of interest from 6% to 8% on the whole of

the amount in the special facts and circumstances of this case. We are doing this purely as a sympathetic gesture because the evidence in this case is so very weak that despite the death having taken place the aggregate compensation is still relatively low.

4. The respondent is directed to deposit the balance amount with the Tribunal within an outer limits of 12 weeks from today. In the facts and circumstances of the case, we direct that the enhanced amount shall go to the appellant No. 1 husband alone insofar as the remaining claimants have already been awarded; some amount by the Tribunal out of the earlier compensation.

5. The appeal succeeds to this extent and stands disposed of. Parties to bear their own costs.

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