SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

T.T. Narayanan and anr. Vs. Mrs. P. Bridget and ors.

T.T. Narayanan and anr. Vs. Mrs. P. Bridget and ors.

SooperKanoon Citation : sooperkanoon.com/727318

Court : Kerala

Decided On : Mar-07-1991

Reported in : II(1991)ACC120

Judge : U.L. Bhat and; G.H. Guttal, JJ.

Appellant : T.T. Narayanan and anr.

Respondent : Mrs. P. Bridget and ors.

Judgement :

U.L. Bhat, J.

1. U. Vincent, aged 51 years was working as headmaster of an aided lower primary school at Punnacheri. On 28.5.1983 he was plucking grass near a well situated a few yards away from the public road. Stage carriage bus K.L.C. 7647 belonging to first appellant herein and driven by the second respondent in the claim petition came along the road at an excessively high speed, went off the road into the field and dashed against vincent causing fatal injuries. Second appellant is the insurer of the stage carriage bus. widow and ten children of the deceased Tiled a petition before the M.A.C. Tribunal. Thalasseri claiming Rs. 3 lakhs as compensation. The claim was opposed on several grounds but was allowed to the extent of Rs. 1,28,688/- with interest and proportionate costs. Insurer has been directed to pay the entire amount. The owner and insurer of the stage carriage bus have filed the appeal.

2. Learned Counsel for the appellants has urged only two contentions before us. First is that the amount awarded is excessive. Second contention is that liability of the insurer is limited to Rs. 50,000/-.

3. On the date of the occurrence and death deceased had 46 months more service left as headmaster. He was in a pensionable job and he would have drawn pension for fifteen years, namely, till he attains 70 years. The Tribunal computed pay and allowances due for 46 months and the pension due for 15 years and deducted 20% for personal expenses of the deceased and 10% for uncertainties of life and thus arrived at the compensation payable to the claimants. The only submission urged by learned Counsel for the appellants in this regard is that on account of premature death of U. Vincent, the amount of family pension for the period of 15 years has to be deducted from the amount awarded. This submission appears to be correct. Family would be entitled to maximum family pension of Rs. 150/- per month. Computing this for 15 years and deducting 30% the amount of family pension would be Rs. 18,900/-. This amount has to be deducted from Rs. 1,28,688/- awarded by the Tribunal. The correct quantum payable therefore would be Rs. 1,09,788/-.

4. Though the insurer contended that the policy is an Act policy and under the terms of the policy the liability of the insurer is only upto Rs. 50,000/- a copy of the policy was not produced. Ext. B1 which purports to be an extract of the insurance policy does not indicate that it is an Act only policy. Therefore we reject this contention.

5. In the result, we modify the award by fixing the compensation amount payable as Rs, l ,09,788/- with interest and costs as awarded by the Tribunal. The appeal is allowed to this extent but in the circumstances without costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com