

Thimmarayappa and Another Vs. P.R. Manjunath and Another

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Court : Karnataka

Decided On : Apr-21-2011

Reported in : 2011ILR(Kar)2143; 2011(5)KantLJ174

Judge : The Honourable Dr. Justice K. Bhakthavatsala

Appeal No. : M.F.A. No. 674 of 2009

Appellant : Thimmarayappa and Another

Respondent : P.R. Manjunath and Another

Advocate for Pet/Ap. : For the Petitioner: N.K. Bhaskaraiah, Advocate. For the Respondent: R2 - M. Narayanappa, Advocate, Notice to R-1 dispensed with.

Judgement :

DR. BHAKTHAVATSALA, J

1. The appellants are the father and mother of the deceased Megha, aged about 9 years, who died in the motor accident that occurred on 03.10.2003. They are before this Court praying for enhancement of compensation towards death of their daughter.
2. The appellants are hereinafter referred to as 'the claimants'.
3. The Appellants/claimants have urged in the memorandum of appeal that the Tribunal erred in ignoring the evidence of P.Ws.1 and 2 that the deceased was

earning Rs.35/- to Rs. 40/- per day by working in a Tailoring shop. It is also contended that the deceased was aged about 10 years at the time of accident and in view of the decision in S.SANA ULLA AND ANOTHER vs A.R. SHIVASHANKAR AND OTHERS¹, the tribunal should have been awarded compensation of Rs. 2,25,000/- instead of Rs.1,85,000/-

4. Learned Counsel for Respondent No.2/Insurance Company submits that the compensation of Rs. 1,80,000/- awarded by the Tribunal towards death of was aged about 9 years is adequate and there is no good ground made out for enhancement of compensation.

5. According to the appellants/claimants, the deceased was studying in 4th standard in Government School at Madalur village and also working as a helper in a tailoring shop run by one Nagaraj and earning Rs.35 to Rs.40 per day. Since the deceased was a student and minor, the contention of the appellants/parents of the deceased that the deceased was earning Rs.35 to Rs.40 per day, cannot be accepted. However, had the deceased, who was 8 years 3 months old, survived and after lapse of 8 years and 9 months, that is on attaining the age of majority, she would have assisted and supported the claimants/parents, atleast to the extent of Rs.1,500/- per month. At that time, the claimant No.2 /mother would be 45 years. According to be decision reported in SARLAVERMA's case multiplier 14 can be applied for the age group of persons 41-45. In my opinion, the method of commutation of compensation in the case of minor children would be to add the number of years that is required for the deceased to attain the age of majority to the age of the mother and then find out the proper multiplier and award compensation. Accordingly, the claimants are entitled for compensation as under: i) Loss of dependency

(Rs.1,500/- x 12 x 14)	2,52,000-00
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ii) Loss of love and affection	10,000-00
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iii) Transportation of dead body and

Funeral expenses	5,000-00
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Total	2,67,000-00

LESS Compensation awarded by the	
Tribunal	1,80,000-00

	87,000-00

Thus, the claimants are entitled for additional compensation of Rs.87,000/-

6. In the result, the appeal is partly allowed, holding that the appellants/claimants are entitled for additional compensation of Rs.87,000/- along with costs and interest at the rate of 8% P.A., from the date of petition till realization. Accordingly, the impugned Judgment and Award are modified. The additional compensation amount shall be apportioned among the appellants/claimants equally.

The Respondent No.2/Insurance Company is directed to deposit the additional compensation amount along with costs and interest with the Tribunal within two months from today.

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