

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 25TH DAY OF MAY, 2012

BEFORE

THE HON'BLE MR. JUSTICE B. SREENIVASE GOWDA

M.F.A. NO.579/2009 (MVC)

BETWEEN

-
- 1 SMT JAYANTHI
W/O LATE SURESH K
AGED ABOUT 50 YEARS
 - 2 MR. YATHIRAJ K
S/O LATE SURESH K
AGED ABOUT 22 YEARS
 - 3 MASTER PRATHVIRAJ K
S/O LATE SURESH K
AGED 18 YEARS

ALL ARE R/AT VIVEKNAGAR, BALLALBAGH
M.G.ROAD, MANGALORE

... APPELLANTS

(BY SRI P KARUNAKAR, ADV.)

AND :

-
- 1 SOORAJ RAI
S/O DASAPPA RAI
AGED 32 YERS
R/A KUVekkodi HOUSE
SOORIKUMERU
BALTHILA VILLAGE
BANTWAL

- 2 THE BRANCH MANAGER
THE NATIONAL INSURANCE CO. LTD
BRANCH OFFICE AT BHARATH BUILDING
P M RAO ROAD
MANGALORE
- 3 KRISHNARAJA RAI K S/O DOOMANNA RAI
KUKKAJE
MANCHI VILLAGE
BANTWAL
- 4 THE UNITED INSURANCE CO. LTD
BRANCH OFFICE VARANASI TOWERS
MISSION STREET, BUNDER
MANGALORE

... RESPONDENTS

(BY SRI RAVISHANKAR, ADV. FOR R3
SRI M SOWRIRAJU, ADV. FOR R2
SRI C SHANKARA REDDY, ADV. FOR R4
R1 NOTICE DISPENSED WITH)

MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED: 27.2.2008 PASSED IN
MVC NO.1271/2005 ON THE FILE OF THE I ADDL.
DISTRICT JUDGE, MACT, D.K, MANGALORE PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION
AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL COMING ON FOR FINAL HEARING THIS
DAY, THE COURT DELIVERED THE FOLLOWING:-

J U D G M E N T

This appeal is by the claimants seeking
enhancement of compensation awarded by the
Tribunal.

2. Heard learned counsel appearing for parties and perused the judgment and award of the Tribunal.

3. For the sake of convenience, the parties are referred to as they are referred to in the claim petition before the Tribunal.

4. As there is no dispute regarding death of the deceased in a road traffic accident occurred on 18.5.2005 due to rash and negligent driving of the offending lorry bearing registration No.KA-19-4884 by its driver and liability of the insurer of the offending vehicle, the only point that arises for my consideration in the appeal is:

"whether compensation of Rs.7,31,080/- with interest at 6% p.a. awarded by the Tribunal is just and reasonable or does it call for enhancement?"

5. After hearing the learned counsel appearing for parties and perusing the judgment and award of the Tribunal, I am of the view that the compensation awarded by the Tribunal is not just and reasonable, it is on the lower side and hence it is required to be enhanced.

6. The deceased was aged about 47 years at the time of his death in the accident as evident from the post mortem report Ex.P-5. The claim petition is filed by his wife and two sons seeking compensation under Section 166 of MV Act. The claimants in support of their contention that the deceased was working as Accounts Superintendent in Mysore Urban Development Authority (MUDA) and getting salary of Rs.6,664/- per month have examined the first claimant, wife of the deceased as PW-1 and have produced his salary certificate at Ex.P-9. Ex.P-9 discloses that deceased was drawing salary of Rs.6,664/- per month. As deceased was aged about

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47 years, 30% of his salary has to be added to his income towards his future prospect which comes to Rs.1999/- and his total salary comes to Rs.8,663/- (6664+1999). All the three claimants are dependent claimants and therefore 1/3rd of the income of the deceased has to be deducted towards his personal expenses and 2/3rd of it has to be taken as his contribution to family. The multiplier applicable to his age group is 13. Therefore, the 'loss of dependency' works out to **Rs.9,00,952/-** (8663 x 2/3 x 13 x 12) and it is awarded as against Rs.6,91,080/- awarded by the Tribunal.

7. Further, as **Rs.40,000/-** awarded by the Tribunal under different heads of convention is just and proper, there is no scope for enhancement under these heads.

8. Thus, the claimants are entitled for the following compensation:-

	PARTICULARS	Rs.
1	Loss of Dependency	900,952

2	Conventional heads	40,000
	TOTAL	9,40,952
	Compensation awarded by the Tribunal	7,31,080
	BALANCE	2,09,872

9. Accordingly, the appeal is allowed in part.

The judgment and award passed by the Tribunal is modified to the extent stated herein above. The claimants are entitled for an additional compensation of **Rs.2,09,872/-** with interest at 6% p.a. from the date of claim petition till the date of realisation.

10. The Insurance Company is directed to deposit the additional compensation amount with interest within two months from the date of receipt of a copy of this judgment.

11. Out of the additional compensation, Rs.50,000/- each with proportionate interest is ordered to be invested in fixed deposit in the name of all the claimants in any Nationalised Bank/Scheduled

Bank/Post Office for a period of 9 years renewable once in 3 years and with a right of option to withdraw interest periodically. Remaining amount with proportionate interest is ordered to be released in favour of the claimants in equal proportion immediately after the deposit.

12. No order as to costs.

Sd/-
JUDGE

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