IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 10TH DAY OF AUGUST, 2011

PRESENT

THE HON'BLE MR. JUSTICE K.L.MANJUNATH

AND

THE HON'BLE MR. JUSTICE H.S.KEMPANNA

M.F.A. No.8831/2010 (MV)

BETWEEN

1. THE DIVISIONAL MANAGER
KSRTC DEPOT,
CHIKKABALLAPUR TOWN
CHIKKABALLAPUR DISTRICT.

2. THE MANAGING DIRECTOR
KSRTC, K H ROAD,
SHANTHINAGAR, BANGALORE -560 027
REP. BY ITS CHIEF LAW OFFICER. ... APPELLANTS

(BY SRI.K S BHARATH KUMAR -ADV.)

AND

1. SRI AKKALAPPA S/O LATE GANGAPPA
AGED ABOUT 56 YEARS

2. SMT. MUNIYAMMA W/O SRI. AKKALAPPA
AGED ABOUT 53 YEARS

3. SMT. GAYATHRAMMA @ GAYATHRI
W/O LATE A GANGARAJU
AGED ABOUT 25 YEARS

4. MASTER G ARUN KUMAR
S/O LATE A GANGARAJU
AGED ABOUT 07 YEARS

5. BABY G AMBIKA D/O LATE A GANGARAJU
AGED ABOUT 03 YEARS

RESPONDENTS 4 &5 ARE MINORS
& ARE R/BY THEIR MOTHER & NATURAL
GUARDIAN SMT. GAYATHRAMMA @ GAYATHRI

RESPONDENT NO.1 TO 5 ARE
R/AT ANUR, HUNISENAHALLY
THIPPENAHALLI POST,
SHIDLAGHATTA TALUK
CHIKKABALLAPUR DISTRICT

6. SRI. DODDE GOWDA
WORKING AS DRIVER
KSRTC, TOKEN NO. 3469
KSRTC DEPOT
CHIKKABALLAPUR TOWN
CHIKKABALLAPUR DISTRICT ... RESPONDENTS

(BY SRI.P V CHANDRASHEKAR –ADV. FOR C/R1 –5,)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:19.4.2010 PASSED IN MVC NO.1851/2009 ON THE FILE OF XIII ADDITIONAL SMALL CAUSE JUDGE, MEMBER, MACT, BANGALORE, AWARDING A COMPENSATION OF RS.19,04,550/- WITH INTEREST @ 6% P.A. FROM THE DATE OF PETITION TILL REALISATION.

THIS APPEAL COMING ON FOR HEARING ON INTERLOCUTORY APPLICATION THIS DAY, MANJUNATH J., DELIVERED THE FOLLOWING:-

O R D E R

KSRTC has preferred this appeal challenging the quantum of compensation awarded by the MACT, Bangalore passed in MVC No.1851/2009 on 19.04.2010.

2. The admitted facts are as hereunder;

The claimants are the aged parents, young widow of 24 years and minor children of one Gangaraju, who died in a road traffic accident occurred on 12.11.2008 at about 8.25 p.m., while he was discharging his duty as a Police Constable at Chikkasanne Gate at Devanahalli. On the unfortunate day, the deceased Gangaraju along with Ashwathanarayana, were deputed to take care of a dead body, while they were on duty, on account of rash and negligent driving of the KSRTC bus bearing No.KA-07-F-1013 dashed against the deceased Gangaraju. He sustained grievous injuries. He was immediately shifted to Manasa Hospital, Devanahalli and he succumbed to the injuries. The Tribunal considering his age and salary, awarded a total compensation of Rs.18,54,550/- along with interest at 6% per annum from the date of petition till the date of payment.

3. Only ground urged in this appeal by the KSRTC is that the application of multiplier of 17 is bad in law and considering his age from the judgment of the Hon'ble Supreme Court in Sarala Verma's case, the actual multiplier was required to be applied is 16. Therefore, to that extent, the present appeal is filed.

4. As could be seen from the post mortem report, the age of the deceased is shown as 30. The learned counsel for the appellant relying upon the voters' list-Ex.P.12, his age has to be considered as 33. In that event, the multiplier should be applied by the Tribunal is 16. Therefore, he requests the Court to reduce the compensation in accordance with law.

5. Having heard the learned counsel for the parties, the only point to be considered by us in this appeal is;

"Whether the age shown in the voter's list has to be believed or the age shown in the post mortem report in order to apply the multiplier?"

6. Normally, the age shown in the voters' list cannot be held to be a conclusive proof. But the age shown in the post mortem would be based on the clinical examination and the age shown in the post mortem report will have more weightage than shown in the voter's list. In the circumstances, we are of the opinion that the Tribunal is justified in applying the multiplier of 17 relying upon the age shown in the post mortem report.

7. Accordingly, the appeal is dismissed.

Amount if any in deposit is ordered to be transferred to the Tribunal.

Sd/-
JUDGE

Sd/-
JUDGE

SA