

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 01ST DAY OF FEBRUARY 2012

BEFORE

THE HON'BLE MR JUSTICE K.GOVINDARAJULU

MFA NO. 8623 OF 2010 (MV)

BETWEEN:

1. N.SADASHIVAPPA,
S/O MARAPPA,
AGED ABOUT 52 YEARS,

2. B.M. GOWRAMMA,
W/O N.SADASHIVAPPA,
AGED ABOUT 42 YEARS,

3. D.S. PRIYADARSHINI,
S/O N.SADASHIVAPPA,
AGED ABOUT 21 YEARS,

ALL ARE R/O
SIRIGERE,
CHITRADURGA TALUK
AND DISTRICT.

...APPELLANTS

(BY SRI.D.R.NAGARAJA- ADV.)

AND:

1. M/S BAJAJ ALLIANCE GEN.INSU.CO.LTD.,
BY ITS REGIONAL MANAGER,
TBR TOWERS, 1ST FLOOR NEW

✓

MISSION ROAD,
BANGALORE.

2. B.R.ASHOK,
S/O REVANNAPPA,
AGED ABOUT 33 YEARS,
OWNER OF LORRY
NO.KA-16/A 2973,
R/O MALLENEHALLI,
HOLALKERE TALUK,
CHITRADURGA DIST.

...RESPONDENTS

(BY SMT.H.R.RENUKA ADV FOR R1)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED: 03.07.2010 PASSED IN MVC.NO.62/2009 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND ADDITIONAL MACT, CHITRADURGA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

JUDGMENT

The claimants in MVC.No.62/2009 on the file of the II Additional Civil Judge (Senior Division) and Additional MACT Chithradurga are the appellants.


h

2. Parties will be referred according to their ranking before the MACT for convenience.

3. The facts necessary for the consideration of the appeal are as under:

The appellants claim compensation in regard to the death of Sudhakar, who is said to be the son of the first and second claimants and sister of third claimant. It is their case that Sudhakar met with an accidental death on account of hit by a Tipper bearing registration No.KA 16 A 2973, so having lost a bread earning member seek for compensation.

4. The learned Member of the Tribunal while assessing the income of the deceased at Rs.4500/- has awarded a compensation of Rs.3,76,613.39. The learned Advocate for the claimant contends that the income assessed @ Rs.4500/- is on a lower side, as the accident is of the year 2008 so seek for enhancement of compensation.



5. On the other hand Smt.H.R.Renuka appearing on behalf of the Insurance Company vehemently contend that there is no evidence placed by the claimants about the income of the deceased, muchless no loss is there to the family as the ten acres of land that was being cultivated is available and there is no financial loss as such, so supports the finding of the learned Member of the Tribunal.

6. The submissions probablize accident is admitted. Actionable negligence is not disputed. In regard to the income assessed, the claimant in addition to doing agriculture, was doing milk vending business. Hence, the income assessed at Rs.4,500/- is required to be interfered with and it is assessed at Rs.6,000/- per month. The deceased being a bachelor, 50% of the income is deducted towards personal expenses. Therefore, it works out Rs.3000 X 12 X 13= Rs.4,68,000/-. A sum of Rs.15,000/- is awarded

towards medical expenses in addition to, a sum of Rs.40,000/- is awarded under the conventional heads. So, in all the claimants are entitled for Rs.5,23,000. A sum of Rs.3,76,613.39/- is awarded by the Tribunal. The difference works out to Rs.1,46,387/- and the same is awarded.

7. Accordingly, the appeal is allowed in part. The appellants are entitled for an additional compensation of Rs.1,46,387/- with interest @ 6% per annum from the date of application till deposit. The Insurance Company is directed to deposit the additional compensation amount along with interest with the Tribunal within 3 months from today.

Sd/-
JUDGE

sh