

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 6TH DAY OF JANUARY, 1998

BEFORE

THE HON'BLE MR. JUSTICE CHIDANANDA ULLAL

M.F.A.NO. 248/1994.

Between :

Karnataka State Road  
Transport Corporation,  
Central Office, K.H.Road,  
Bangalore @ 27.

.. APPELLANT

(By Sri. D.Vijayakumar for appellant.)

A n d :

1. Sri. Dharmanna,  
s/o. Ramanna Joger,  
aged about 51 years,  
Occ : Coolie, R/o.  
Hesarur, Savanur taluk,  
Dharwad.
2. Smt. Gangavva, w/o.  
Dharmanna Joger,  
aged about 44 years,  
R/o. Hesarur, Occ: House-  
hold work, Savanur taluk,  
Dharwad.

.. RESPONDENTS

(R.1 and R.2 are served.)

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MFA filed u/s. 110-D of M.V.Act against  
the judgment and award dt. 10-8-93 in MVC No.  
436/88 on the file of the Pri. Dist. Judge &  
MACT, Dharwad allowing the claim petition for  
compensation.

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This M.F.A. coming on for hearing this day, the Court delivered the following :

J U D G M E N T

This appeal is filed by the KSRTC to challenge the judgment and award in case No. MVC 436/88 dt. 10-8-93 passed by the Principal District Judge and Motor Accident Claims Tribunal, Dharwad, whereunder he had awarded a global compensation of Rs.64,600/- on the death of a girl child aged about 10 to 11 yrs.,

2. I heard the learned Counsel for the appellant Sri. D.Vijayakumar. The respondents having been served with notices have remained absent before this Court. I have also perused the case records.

3. The learned Counsel for the appellant while taking me through the facts of the case and the impugned judgment and award argued that the global compensation of Rs.64,600/- awarded by the Motor Accident Claims Tribunal due to the death of the girl-child aged about 11 years was totally on the high side. It is also argued by him that a child/<sup>who</sup>admittedly was 11 years could not be taken by the Motor Accident Claims Tribunal as a wage earner to hold that she was earning a monthly income of Rs.450/- as coolie in the absence



of any material evidence except the oral evidence on the part of the respondent No. 1 before the Motor Accident Claims Tribunal. According to him, the global compensation of Rs.30,000/- to Rs.35,000/- would have been the proper compensation to be awarded in favour of the respondents.

4. Having gone through the evidence on record, it appears to me that the deceased was no doubt working as a coolie, but nevertheless, the Motor Accident Claims Tribunal would not have taken the daily wage at Rs.15/- per day by her to work out the loss of dependency at Rs.300/- per month or Rs.3,600/- per year by giving deduction to an extent of 1/3 thereof towards personal expenses out of the said sum of Rs 4500/- p.m or Rs 5400/- p.a.

5. It is argued by the learned Counsel for the appellant that one cannot expect 11 years old to work; such an argument is difficult for me to consume for the twin reasons, firstly that the claimants herein were coolies themselves and secondly that child-labour is the order of the day in this country, no matter that it is banned statutorily. I don't think this Court can shut its eyes for stark realities in life in this country for economic and social reasons, when it is matter of assessment of compensation justly

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and properly to be awarded in claims cases as the one in hand, as solace to the succour.

6. It is also the grievance of the learned Counsel for the appellant that the multiplier would not have been '16' but would have been '11' only.

7. I do appreciate that the Motor Accident Claims Tribunal would not have taken the monthly earning of a child aged 11 years at Rs.15/- per day and to work out the loss of dependency at Rs.3,600/- per year by giving deduction for 1/3 out of the ~~said~~ <sup>total</sup> sum towards her personal expenses, as argued by the learned Counsel for the appellant. In my considered view, the Motor Accident Claims Tribunal would have taken a daily wage at Rs.10/- per day or Rs.300/- per month and by giving deduction by 1/3 thereof towards personal expenses, dependency would <sup>✓ been ✓</sup> have worked out to Rs.200/- per month or Rs.2,400/- per year. If the multiplier for the age group correlated with the age of the parents, it appears to me that the multiplier applicable to the case in hand is '15'. If that multiplier is employed, the loss of dependency works out to Rs.36,000/-. If the conventional amount of Rs.5,000/- towards funeral and obsequies <sup>✓ is ✓</sup> ~~is~~ added, the global compensation works out to Rs.43,000/-; <sup>✓ need less to say that ✓</sup> ~~both~~ the respondents are entitled to the said sum equally.

8. In my considered view, if the above global compensation is awarded, that would be just and proper compensation payable to the respondents. The interest according to me payable by the appellant is at 9% p.a. as against 6% p.a. awarded by the Motor Accident Claims Tribunal from the date of petition. The impugned judgment and award passed by the Motor Accident Claims Tribunal below is accordingly modified as here<sup>✓</sup>above awarded.

9. Let the appellant deposit the entire amount together with interest at 9% p.a. from the date of petition before the Motor Accident Claims Tribunal by giving deduction for the amount if any earlier deposited <sup>By it ~~the~~</sup> before the Motor Accident Claims Tribunal <sup>or</sup> ~~as was~~ before this Court, under intimation to the respondents.

10. The Registry is also directed to transfer the amount of Rs.25,000/- stated to have been de- <sup>in the Appeal</sup> posited by the appellant before this Court to the Motor Accident Claims Tribunal, Dharwad, at the earliest.

11. The Registry is further directed to send a copy of this order free of cost to both the respondents individually, one by RPAD and another



Under Certificate of Posting, as they are poor coolies and remained absent before this Court; such a direction is given fearing that they may go unaware about the result of the appeal and may not claim the sum at all despite the deposit of the sum awarded as modified in the appeal by the appellant-KSRTC.

12. The appeal therefore succeeds and accordingly allowed, but in part. No cost.

Sd/-  
Judge

mgn/-