

IN THE HIGH COURT OF KARNATAKA AT BANGALORE.

Dated the 10th day of November 1998.

BEFORE

THE HON'BLE MR. JUSTICE N.S. VEERABHADRAIAH.

MISC. FIRST APPEAL NO. 1690/1990.

BETWEEN:

- 1) Smt. Anjanamma,
W/O late Narasimhaiah,
Aged about 37 years.
- 2) Narasimha Murthy,
S/O late Narasimhaiah,
Aged about 24 years.
- 3) Narayana,
S/O late Narasimhaiah,
Aged about 20 years.

Appellants-1 to 3 are residing
at Adakamaraiahalli Village,
Makali Post, Daganapura Hobli,
Bangalore North Taluk.

APPELLANTS.

(By Sri.G.S. Ramadas for appellants)

AND:

General Manager,
B.T.S. Division,
Double Road, Shanthinagar,
Bangalore-27.

RESPONDENT.

(By Sri.Urval N. Ramanand for R.1)
(By Sri. R. Gopalakrishna for R.2)

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This Misc. First Appeal filed under Sec. 110-B of the Motor Vehicles Act, against the order dated 19-1-1990 passed in M.V.C. No. 516/88 on the file of the Motor Accidents Claims Tribunal, No. II, Bangalore Rural District, Bangalore etc.,

This appeal coming on for hearing this day, the Court delivered the following:

JUDGMENT.

JUDGMENT.

This is claimant's appeal for enhancement of compensation.

2. Brief facts of the case are as follows:

The wife and sons of the deceased - Narasimhaiah presented a claim petition under Section 110(A) of the Motor Vehicles Act ('the Act' for short) claiming compensation of Rs.2,00,000/- on account of his death in the motor vehicle accident that took place on 25-5-1988 while alighting the bus due to the rash and negligent driving of the K.S.R.T.C. bus.

3. The respondent resisted the Claim petition by filing a detailed objection statement.

4. The claims Tribunal considering the evidence and the police records held that the accident resulted on account of the rash and negligent driving of the K.S.R.T.C. bus and awarded a total compensation of Rs.73,000/- with interest at 9%. The claimants being dissatisfied with the amount of compensation

8. It is in the evidence of P.W.1 that the deceased was her husband and was doing business in vegetables and earning Rs.150/- per day. The Claims Tribunal has taken the earning of the deceased as Rs.750/- per month. Normally the family consisting of a wife, deceased and two children minimum required is a sum of Rs.1000/- per month. The claim of the claimants appears to be on the higher side. At the most, the deceased would have earned not less than Rs.30/- per day and thereby the deceased would have earned Rs.900/- per month by doing business in vegetables. Deducting 1/3 the loss of dependency per month would come to Rs.600/- and the annual dependency would come to Rs.7200/-. By applying the multiplier of 14 the total loss of dependency would come to Rs.1,00,800/- which appears to be just and reasonable. The amount awarded in respect of other heads does not call for interference.

9. For the foregoing reasons, the appeal is allowed. The appellants are entitled

awarded, have preferred this appeal claiming enhancement of compensation.

5. Learned counsel for the appellants - claimants submitted that the deceased was a vegetable merchant earning a sum of Rs.100/- per day and the dependency fixed at Rs.500/- by the Claims Tribunal is very low and meagre and therefore prayed to enhance the compensation.

6. On the other hand, learned counsel for the respondent - K.S.R.T.C. contended that the award of compensation is just and reasonable. If really the deceased were to have earning a sum of Rs.100/- per day from the vegetable business all others would have taken the same business and thereby justifies the award of compensation and prays to dismiss the appeal.

7. The point for consideration that arises is :

Whether the appellants are entitled for enhancement of compensation ?

What order ?



-: 5 :-

for further compensation of Rs.40,800/- with
with interest at 9% from the date of petition
till the date of deposit.

The parties shall bear their own
cost.

Sd/-
Judge

Csk/-