

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 10TH DAY OF DECEMBER, 1998

P R E S E N T

THE HON'BLE MR. JUSTICE ASHOK BHAN
&
THE HON'BLE MR. JUSTICE S.R. BANNURMATH
MISCELLANEOUS FIRST APPEAL NO.5182/1998

BETWEEN:

1. Sri. Arun, S/o Manikchand Shah,
major, 49 years,
Occ: Business, R/o Jamakhandi,
Bijapur Dist.

2. Smt. Anitha, W/o Arun Shan,
46 years, Occ: Household work,
R/o Jamakhandi, Bijapur Dist.

3. Archana, D/o Arun Shah,
major, Occ: Household work
R/o Jamakhandi, Bijapur Dist.

: APPELLANTS.

(By Sri.S.M. Patil (Ankalagi))

AND:

1. Sri. Rukmoddin M. Choudhari,
major, Occ: Business,
P/o No.757, Shukwarpeth,
Solapur, Maharashtra.

2. The Divisional Manager,
Oriental Fire and General
Insurance Co. Ltd.,
Ramdevgalli, Dist: Belgaum.

: RESPONDENTS.

This miscellaneous first appeal filed under Sec.173(1) of the Motor Vehicles Act against the judgement and award dated 8.5.98 in MVC No.967/90 on the file of the Civil Judge (Sr.Dn.) & Addl. MACT, Gokak partly allowing the claim petition for compensation.

This appeal coming on for orders this day,
ASHOK BHAN J., delivered the following:

JUDGEMENT

This appeal has been filed along with I.A.I to condone the delay of 99 days in filing the appeal. I.A. I and the appeal are taken up together for disposal.

2. We are not satisfied with the sufficiency of the cause shown to condone the delay. In any case, we do not find any merit in the appeal for the reasons stated in the next paragraph and therefore decline to condone the delay because no purpose would be served in issuing notice to the respondents to come and defend the application for condonation of delay only.

3. 'A' son of the appellant died in a road accident on 24.2.90. He was 19 years of age. Although the case of the appellants was that the income of the deceased was Rs.15,000/- per month, the Tribunal disbelieved the same as the deceased was not an income tax payee. Keeping in view his age and education, Tribunal determined the income of the deceased in the year 1990 to be Rs.1,000/- per month. After deducting 1/3rd towards personal

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expenses, Rs.650/- per month was taken as the loss of dependency, ~~in the proceedings~~. A multiplier of 13 was adopted. The parents of the deceased are aged between 38 and 41 years. In our view, the income determined and the multiplier adopted is reasonable. No merit.

Sd/
Judge

Sd/
Judge

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