

IN THE HIGH COURT OF KARNATAKA,
CIRCUIT BENCH AT GULBARGA,
ON THE 29TH DAY OF NOVEMBER, 2012,
BEFORE

THE HON'BLE MR.JUSTICE RAVI MALIMATH
MISCELLANEOUS FIRST APPEAL NO.30424 OF 2010(MV)

BETWEEN:

1. Gurulingappa
S/o Revanappa Kalshetty
Age: 55 Years, Occ: Bank Employee
2. Rajeshwari
W/o Gurulingappa Kalshetty
Age: 48 Years, Occ: Household

Both are R/o Plot No.76, Bank Colony
Beside Kevempur Nagar, Gulbarga. ... Appellants

(By Sri. K.A. Kalburgi, Adv.)

AND:

1. Abdul Rasheed
Age: 37 Years,
Occ: Driver APL-157
DAR Police Head Quarters,

Gulbarga.

2. Superintendent of Police
Gulbarga.
3. Director, KGID, Bangalore
Through its Div. Office, KGID
Bamboo Bazar, Gulbarga. ... Respondents

(By Sri. S.K. Babashetty, HCGP for R-2 & R-3
R-1 Notice dispensed V/o dt: 26.08.10)

This Miscellaneous First Appeal is filed under Section 173(1) of the Motor Vehicles Act against the Judgment and Award dated 17.12.2009 passed in MVC No.976/2008 on the file of the II Addl. Civil Judge (SR.Dn.,) and MACT at Gulbarga.

This Appeal coming on for hearing, this day, the court delivered the following:

JUDGMENT

Aggrieved by the Judgment & award passed by the Tribunal the claimants have filed the present appeal seeking enhancement and questioning the 50% negligence attributed to the deceased. On

considering the material evidence on record I do not find any good ground to interfere so far as negligence is concerned. The material on record would show that the deceased was also negligent which resulted in the accident. Hence so far as 50% negligence is concerned the same is undisturbed.

2. The deceased was stated to be working as a Supervisor and his salary in terms of Ex.P-7 indicates that he was drawing Rs.3,500/- per month. However, the Tribunal held the same as Rs.3,000/-. There is no apparent reason to disbelieve the plea. Hence, his income is taken at Rs.3,500/- per month. The multiplier adopted at 13 is appropriate and undisturbed. Since he as a bachelor 50% is deducted towards personal expenses. Hence, the loss of dependency is calculated as under:-

$$\text{Rs.3,500/-} - (\text{less } 50\%) \times 12 \times 13 = \text{Rs.2,73,000/-}$$

Towards loss of love & affection the amount awarded is enhanced by a sum of Rs.20,000/-. The amount awarded towards funeral expenses is enhanced by a further sum of Rs.10,000/-. The compensation now awarded is as follows:-

Loss of dependency	Rs. 2,73,000/-
Loss of estate	Rs. 5,000/-
Loss of love & affection	Rs. 30,000/-
Funeral expenses	Rs. 15,000/-

Total	Rs. 3,23,000/-

Consequently the compensation is enhanced by a further sum of Rs.69,000/-(Rs.3,23,000/- less Rs.2,54,000)/- along with interest at the rate of 6% p.a. from the date of the Petition till the date of

realization and to be paid within a period of 4 weeks from the date of receipt of copy of this order.

Sd/-
JUDGE

Rsk/-