

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 3RD DAY OF JUNE 2009

BEFORE

THE HON'BLE MR.JUSTICE ANAND BYRAREDDY

M.F.A.No.7837/2006(MV)

BETWEEN:

The New India Assurance
Company Limited, Vanivilas Road
Bangalore, DO-X, Basavanagudi
Bangalore-4, Rept. By its
Divisional Manager Sri.K.Shivaji ...APPELLANT

(By Sri.B.C.Saatharama Rao, Advocate)

AND :

1.G.N.Rajamma, 24 years
W/o.late Puttaraju

2.N.P.Jayanth, 6 years
S/o.late Puttaraju

3.N.P.Liketh, 3 years
S/o.late Puttaraju

4.Narayanappa, 67 years
S/o.late Kattagowda

5.Lakshamma, 57 years
W/o.Narayanappa

Respondents 2 and 3 being
Minors, Rept. By their
Mother the first respondent

All are residing at No.8151

Channappa Badavane,
Nelamangala Town,
Bangalore Rural District.

...RESPONDENTS

(By Sri.Shripad V.Shastri, Advocate)

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This appeal is filed under Section 173(1) of Motor Vehicles Act against the judgment and award dated 15.2.2006 passed in M.V.C.No.5348/04 on the file of Additional Judge, Member, MACT-V, Court of Small Causes, Metropolitan Area, Bangalore(SCCH-5) awarding a compensation of Rs.8,69,000/- with interest at 6% per annum from the date of petition till deposit.

This appeal coming on for final hearing this day, the Court passed the following:-

JUDGMENT

Heard the learned counsel for the appellant and the learned counsel for the respondents.

2. This is an insurer's appeal challenging the award in favour of the respondents as a result of the death of one Puttaraju, who was the husband of the first respondent. The Tribunal having awarded a sum of Rs.8,69,000/-, the insurer seeks to challenge the same on the ground that the award of Rs.3,65,000/- has been made under the head of medical expenses though the same was not supported by bills. The appellant

is in a position to demonstrate that the actual medical expenditure was only Rs.2,23,382/- as evidenced by materials placed on record, the balance amount that has been awarded is excessive and without any basis. Further, it is also pointed out that other amounts awarded under other heads of compensation is equally excessive and would require to be interfered with. The counsel for the appellant has argued at length in this vein.

3. The counsel for the respondent, on the other hand, would seek to support the award on the basis that the exercise undertaken by the appellant in seeking to demonstrate that the expenses would be restricted to bills and prescriptions that are made available on record, the Tribunal has accepted the contention of the respondents as to there being expenditure over and above the amounts as evidenced by the materials placed on record and hence, the amount having been awarded at the discretion of the Tribunal on a finding as it were, there is no

warrant for interference. In so far as the contention that there has been excessive award under other heads of compensation is concerned is not tenable as the same are conventional heads and the amounts awarded are conservative and cannot by any standards said to be excessive.

4. On these contentions, from a perusal of the record, it is clear that there is no material available and admittedly so in so far as the medical expenses exceeding Rs.2,23,388/-. Giving room for such additional expenditure, which are not actually evidenced by bills, the same could not exceed Rs.2,25,000/- and therefore, the award of Rs.3,65,000/- towards medical expenses by the Tribunal is capricious and arbitrary and this would certainly requires to be interfered with by this Court. Accordingly, the award of Rs.3,65,000/- stands reduced by Rs.1,40,000/-.

5. In so far as the challenge to award of compensation under other heads is concerned, in the opinion of this Court, the same is just and reasonable and does not warrant interference.

6. Accordingly, the appeal is allowed in part. The amount of compensation awarded under the head of medical expenses stands reduced to Rs.2,25,000/- instead of Rs.3,65,000/-. The appellant shall pay the award amount accordingly.

7. The amount in deposit shall be transmitted to the Tribunal for the benefit of the respondent.

*alb/-.

Sd/-
Judge