

IN THE HIGH COURT OF KARNATAKA

CIRCUIT BENCH AT GULBARGA

DATED THIS THE 5TH DAY OF AUGUST 2013

BEFORE

THE HON'BLE MR.JUSTICE S. ABDUL NAZEER

MISCELLANEOUS FIRST APPEAL NO.31531/2011 (MV)

Between:

The Director of Karnataka,
Government Insurance Department,
Vehicle Division 2/3,
Bangalore – 1.

.... Appellant.

(By Sri Sharanabasappa K. Babshetty, HCGP)

And:

1 Shahabuddin,
S/o Mulka Goundi,
Aged about 63 years,
Occ; Goundi Work.

2 Mahabubbi,
W/o Shahabuddin Gundi,
Aged about 58 years.

Both are r/o Godavan Galli,
Indi.

3 Superintendent of Police,
Bijapur (owner of vehicle
No.KA-28/G-216).

- 4 Ambanna,
S/o Tukaram Indi,
Aged about 48 years,
Occ;owner of vehicle No.
KA-25/A-6314, R/o Bheerappa
Nagar, Indi.
- 5 The Branch Manager,
United India Insurance Co. Ltd.,
S.S.Front Road, Bijapur,
(Insurer of vehicle No.
KA-28/A-6314). Respondents.

(By Sri I.R. Biradar, Adv.for R1 and R2
Sri V.M. Biradar, Adv.for R4
Sri S.S.Aspalli, Adv.for R5
R3 served)

This Miscellaneous First Appeal is filed under Section 173(1) of the Motor Vehicles Act, 1988, against the judgment and award dated 14.6 2010 in MVC No.683/2008 on the file of the Motor Accident Claims Tribunal No.XII, Bijapur, etc.

This Miscellaneous First Appeal coming on for Admission this day, the Court delivered the following:

JUDGMENT

The Director of Karnataka Government Insurance Company has filed this appeal challenging the judgment and award in MVC No.683/2008 on the file of the Motor Accident Claims Tribunal No.XII, Bijapur, whereby the Tribunal has awarded total

compensation of Rs.4,18,000/- in favour of respondent Nos 1 and 2 with 6% interest per annum from the date of the petition till the date of deposit.

2. Learned High Court Govt. Pleader appearing for the appellant would contend that the deceased was aged 22 years at the time of his death. The Tribunal has taken his income at Rs.3,500/- per month and multiplier 18 has been applied for the computation of loss of dependency. In fact, the age of the younger of the parents, namely, the mother herein should have been taken for the application of multiplier. The mother was aged 55 years. Therefore, the multiplier applicable to the case is 11. However, the Tribunal has applied 18 multiplier.

3. On the other hand, learned Counsel for respondent Nos.1 and 2/claimants submits that the deceased was earning more than Rs.7,000/- per month. The Tribunal has taken the income at Rs.3,500/- per month. He submits that just compensation has to be awarded to the claimants/respondent Nos.1 and 2.

4. I have carefully considered the arguments of the learned Counsel made at the Bar and perused the materials placed on record.

5. Respondent Nos.1 and 2 are the parents of the deceased Saleem, who died in the motor vehicle accident occurred on 18.1.2008. There is no dispute as to the occurrence of the accident and the liability of the appellant-Insurance Company to pay the compensation. The question for consideration is as to whether the compensation awarded is excessive?

6. As stated above, the deceased was aged 22 years. His mother was aged 55 years. The deceased was a bachelor. Therefore, the Tribunal ought to have adopted a multiplier on the basis of the age of his mother. The multiplier applicable to the case is 11. It is also to be noted here that though the claimants have contended that their son was earning more than Rs.7,000/- per month, the said assertion is not supported by any documents. This Court has to consider grant of just compensation. Having regard to the facts and

circumstances of the case, I am of the view that it is just and proper to notionally fix the income of the deceased at Rs.4,500/- per month. By taking the income of the deceased at Rs.4,500/- per month with the application of multiplier 11 and after deducting 50% of the income towards personal expenses of the deceased, the compensation payable towards loss of dependency comes to Rs.2,97,000/-. The claimants are entitled for an additional sum of Rs.40,000/- towards compensation under all other heads. The total compensation payable comes to Rs.3,37,000/-.

7. In the result, the appeal succeeds and it is accordingly allowed in part. The claimants are entitled for a total compensation of Rs.3,37,000/-, as against the award of compensation in a sum of Rs.4,18,000/- by the Tribunal. The said sum shall carry interest at 6% per annum from the date of the petition till the date of deposit. It is submitted by the learned HCGP that pursuant to the interim order of this Court dated 4.8.2011, the appellant has deposited a sum of Rs.2,50,000/- before the Tribunal. They have also deposited a sum of Rs.25,000/- in this Court while filing the appeal. Thus, the

balance of compensation payable to the claimants comes to Rs.62,000/-. The appellant is directed to deposit balance of Rs.62,000/- with accrued interest thereon within a period of eight weeks from the date of receipt of a copy of this order. They are also directed to deposit interest at 6% per annum on Rs.2,75,000/- from the date of the petition till the date of its deposit. Respondent Nos.1 and 2 are permitted to withdraw the entire amount with accrued interest thereon in equal proportion. The amount in deposit shall be transferred to the Tribunal forthwith if it has already not been transferred. No costs.

*Sd/-
JUDGE.*

BMM/-