

Karnataka High Court Lakshmi W/O Late Sadiya vs Subramanya S/O Venkataramana on 11 July, 2014 Author: Huluvadi G.Ramesh 1

THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 11TH DAY OF JULY, 2014

BEFORE

THE HON'BLE MR. JUSTICE HULUVADI G. RAMESH

M.F.A.NO.852/2010 (MV)

BETWEEN

1. SMT.LAKSHMI W/O LATE SADIYA AGED ABOUT 51 YEARS
2. SRI MANJU S/O LATE SADIYA AGED ABOUT 19 YEARS
3. MINOR ANNAPPA S/O LATE SADIYA AGED ABOUT 17 YEARS
4. MINOR PUSHPA S/O LATE SADIYA AGED ABOUT 15 YEARS

NO.3 AND 4 ARE THE MINORS AND REPRESENTED BY THEIR MOTHER SMT.LAKSHMI, ALL ARE RESIDING AT KANYANA, GUD-DEYANGADI TALLUR VILLAGE, KUNDAPURA TALUK ... APPELLANTS

(BY SRI K.CHANDRANATH ARIGA & SRI LAKSHMINATH M., ADVOCATES)

AND

1. SRI SUBRAMANYA S/O VENKATARAMANA AGED ABOUT 35 YEARS 2
R/O BADA, BYNDOOR KUNDAPURA TALUK
2. MEDICAL OFFICER SAMUDAYA AROGYA KENDRA BRAHMAVARA, UDUPI TALUK
3. KARNATAKA GOVERNMENT DEPARTMENT MOTOR BRANCH BANGALORE
4. SHARTH V.SHETTY R/O CHITRAPURA ROAD SHIRALL, BHATKALA TALUK
5. SMT.KALAVATHI W/O SACHIDANANDA CHANDRA SRI DURGAMBA MOTORS MAIN ROAD, KUNDAPURA

6. THE ORIENTAL INSURANCE CO.LTD. BRANCH OFFICE, PRBHU BUILDING MUNICIPAL MAIN ROAD KUNDAPURA REPRESENTED BY ITS BRANCH MANAGER

... RESPONDENTS

(BY SRI R.OMKUMAR, HCGA FOR R3; SRI K.SURESH, ADVOCATE FOR R6)

MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED: 09.03.2009, PASSED IN MVC NO.826/2004 ON THE FILE OF THE CIVIL JUDGE (SR.DN.) AND ADDITIONAL MACT, KUNDAPURA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL COMING ON FOR ORDERS THIS DAY, THE COURT DELIVERED THE FOLLOWING:- 3

JUDGMENT

This appeal is by the claimants seeking for enhancement of the compensation awarded by the Civil Judge (Sr.Dn.) & Addl. MACT, Kundapura, in M.V.C.No.826/2004.

7. The claimants are the legal representatives of deceased Sadiya. He was working in a Primary Health Centre. While the deceased was travelling in the Ambulance, due to collision between the Ambulance and the Bus which was coming from opposite direction, the deceased succumbed to the injuries. As a matter of fact finding, the Tribunal has held that the accident was due to negligence of the driver of the Ambulance in question and awarded a total compensation of Rs.4,75,900/- taking the salary of deceased at Rs.5,057/-, deducting 1/3rd towards his personal expenses and adopting the multiplier '11'. The deceased was aged about 53 years as on the date of accident. As per the submission made, the multiplier should have been taken at '7' for entire salary and '4' for half of the pension. The Tribunal has taken the multiplier of '11' uniformly.
8. Be that as it may, having regard to number of dependents, instead of deducting 1/3rd towards personal expenses of the deceased, 1/4th should have been deducted. In that view of the matter, the claimants are entitled for another sum of Rs.25,000/- towards conventional heads and another sum of Rs.25,000/- towards loss of dependency. Thus, the claimants are entitled for an additional compensation of Rs.50,000/- over and above what has been awarded by the Tribunal with 6% interest from the date of claim petition till deposit excluding interest for the delay period of 234 days in filing the appeal.

9. Accordingly, the appeal is allowed-in-part. The Insurance Company is directed to deposit the compensation amount with interest within three months. Sd/- JUDGE YN.