

SMT. KALAVATI & ORS.

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v.

MIRZA KAISAR BAIG & ANR.

(Civil Appeal No. 6676 of 2022)

SEPTEMBER 23, 2022

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[M. R. SHAH AND KRISHNA MURARI, JJ.]

Compensation – Enhancement of – Motor accident claim – High Court enhanced the compensation awarded by the Tribunal by enhancing the amount towards loss of dependency considering the income of the deceased persons at Rs.8,500/- per month – On appeal, held: Considering the fact that the deceased were having driving license and were working as drivers, the claimants shall be entitled to the loss of dependency considering the income of the deceased as Rs.10,000/- per month – Thus, in C.A No.6676 of 2022, considering the actual income of the deceased as Rs.10,000/- per month and adding 40% towards the future prospects, thereafter deducting 1/3rd towards the personal expenses of the deceased and applying the multiplier of 15, the claimants are entitled to Rs.16,18,120/- under the head loss of dependency and a total sum of Rs.18,50,120/- towards the compensation with 6% interest – Further in C.A No.6677 of 2022 also, considering the actual income of the deceased as Rs.10,000/- per month and adding 40% towards the future prospects, thereafter deducting 1/3rd towards the personal expenses of the deceased and applying the multiplier of 13, the claimants are entitled to Rs.14,56,104/- under the head loss of dependency and a total sum of Rs.15,76,104/- towards the compensation with 6% interest – Respective impugned orders modified – Respondents-insurance company to deposit the balance enhanced amount of compensation with the Tribunal within 8 weeks from today failing which it shall carry an interest @ 7.5 % all throughout.

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CIVIL APPELLATE JURISDICTION: Civil Appeal No. 6676 of 2022.

From the Judgment and Order dated 19.02.2019 of the High Court of Karnataka at Kalaburagi Bench in MFA No.200507 of 2018.

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A With

Civil Appeal No. 6677 of 2022.

Sharanagouda Patil, Ms. Supreeta Sharanagouda for M/s S-legal Associates, Advs. for the Appellants.

B Shivam Singh, Gopal Singh, Advs. for the Respondents.

The Judgment of the Court was delivered by

M. R. SHAH, J.

C 1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 19.02.2019 passed by the High Court of Karnataka at Kalaburagi Bench passed in respective First Appeals, the original claimants have preferred the present appeals and have prayed to enhance the amount of compensation.

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D 2. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 19.02.2019 passed by the High Court in M.F.A. No. 200507 of 2018 by which the High Court has enhanced the amount of compensation from Rs.10,70,000/- as awarded by the learned Tribunal to Rs.15,98,120/- only, the original claimants have preferred the present appeal.

E 2.1 The issue involved in the present appeal is in a very narrow compass.

F 2.2 That the deceased at the time of accident/death was serving as a driver and was holding a valid driving license. According to the original claimants he was earning Rs.15,000/- per month.

G 2.3 The learned Tribunal awarded the amount of compensation for the death of the deceased at Rs.10,70,000/- under different heads including the loss of dependency. The learned Tribunal considered the loss of dependency at Rs.9,00,000/- considering the income of the deceased at Rs.7,500/- per month. By the impugned judgment and order the High Court has enhanced the loss of dependency to Rs.14,28,120/- considering the income of the deceased at Rs.8,500/- per month.

H 2.4 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court, the claimants have preferred the present appeal for enhancing the amount of compensation on loss of

dependency considering the income of the deceased at Rs.15,000/- per month. A

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3. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 19.02.2019 passed by the High Court in MFA No. 200509 of 2018 by which the High Court has enhanced the amount of compensation from Rs.9,00,000/- as awarded by the learned Tribunal to Rs.12,25,104/- only, the original claimants have preferred the present appeal. B

3.1 That the learned Tribunal awarded a total sum of Rs.9,00,000/- under different heads towards the compensation for the death of the deceased – husband of the appellant no.1. The learned Tribunal has awarded the loss of dependency at Rs.7,80,000/- considering the income of the deceased at Rs.7,500/- per month. In an appeal the High Court has enhanced the amount of compensation to Rs.12,25,104/- by enhancing the amount of compensation towards loss of dependency at Rs. 11,05,104/- considering the income of the deceased at Rs. 8,500/- per month. C D

3.2 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court, the original claimants have preferred the present appeal praying to enhance the amount of compensation under the head loss of dependency considering the income of the deceased at Rs.15,000/- per month. E

4. Having heard learned counsel for the respective parties and in the facts and circumstances of the case and considering the material on record and considering the fact that the deceased were having driving license and were working as drivers, the claimants shall be entitled to the loss of dependency considering the income of the deceased at least as Rs.10,000/- per month. Thereafter adding 40% towards future prospects and rise in income and applying the relevant multiplier the claimants shall be entitled to the enhanced amount of compensation. F

4.1 In the case of Civil Appeal No.6676 of 2022 considering the actual income of the deceased as Rs.10,000/- per month and adding 40% towards the future prospects and thereafter deducting 1/3rd towards the personal expenses of the deceased and applying the multiplier of 15 the claimants shall be entitled to Rs.16,18,120/- (instead of G

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- A Rs.14,28,120/- as awarded by the learned Tribunal) towards the compensation under the head loss of dependency.

4.2 Now so far as the Civil Appeal No.6677 of 2022 is concerned, considering the actual income of the deceased as Rs.10,000/- per month and adding 40% towards the future prospects and thereafter deducting

- B $\frac{1}{3}$ rd towards the personal expenses of the deceased and applying the multiplier of 13 the claimants shall be entitled to Rs.14,56,104/- towards the loss of compensation under the head loss of dependency.

To the aforesaid extent, the impugned judgment and orders passed by the High Court are required to be modified.

- C 5. In view of the above and for the reason stated above, both the appeals succeed in part. The impugned judgment and order passed by the High Court in MFA No.200507 of 2018 is hereby modified and it is held that the original claimants shall be entitled to a total sum of Rs.18,50,120/- towards the compensation with 6% interest (in place of Rs.15,98,120/- as awarded by the learned Tribunal).

Civil Appeal No.6676 of 2022 is partly allowed to the aforesaid extent.

- E 5.1 The impugned judgment and order passed by the High Court in MFA No.200509 of 2018 is hereby modified and it is held that the original claimants shall be entitled to a total sum of Rs.15,76,104/- towards the compensation with 6% interest (in place of Rs.12,25,104/- as awarded by the learned Tribunal).

Civil Appeal No.6677 of 2022 is hereby partly allowed to the aforesaid extent.

- F The respondents/insurance company to deposit the balance enhanced amount of compensation with the learned Tribunal within a period of eight weeks from today failing which it shall carry an interest @ 7.5 % all throughout.

- G Both these appeals are partly allowed to the aforesaid extent. In the facts and circumstances of the case, there shall be no order as to costs.

Divya Pandey
(Assisted by : Deepak Panwar, LCRA)

Appeals partly allowed.