```
Karnataka High Court
```

Sri Awadhut Surayappa Wakase vs Siddharath G Mardane on 27 August, 2010 Author: A.S.Bopanna

```
1.
IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT DIIARWAD
DATED THIS THE 27?" DAY OF' AUGUST, 2Q..f_Q' H
BEFORE
THE I-ION'BLE MR. JUSTICE 1{§I.CCCSV.::BQP«ANI\IA::
MISCELLANEOUS FIRST APPEAL No'.-2_I'39S/ (II/IVI I
BETWEEN:
AWADI-IUT ..
SURYAPPA WAKASE , .
AGE. 22 YEARS,
OCC. STUDE.N'T.,V ,
R/O.TOP
A I
DIST. KQLHAPU:F3. N
KUMAR
SYRAYAPPA
AGE. 17"'I'E}\RS',_ '
OCC. .,STUD'EI\IT,,
SIN4:; 'E3 MINOR" REPRESENTED
I I - I3Y~HIS"MI'NOR GUARDIAN
A MATERNAIIV UNCLE
SRI.A'.7VA..GI{AD~i BALU SISAL
'AGE. 44 YEARS,
OCC. AGRICULTURE,
R/0...T0I3, TALHATKANAGALE,
   DIST. KOLHAPUR, NOW RESIDING
AT}'=MARAGI ROAD, I< AI<;ATI.,
TALUK Sz, DIST. EELGAUM.
... APPELLANTS
```

Ι

' \*'\*'(BY SRI. HARISHS. MAIGUR, ADV.)

1

as-

```
Ix)
I. SIDDHARATH.G.I\/IARDANE
AGE. MAJOR,
OCC. BUSENESS,
R/O. KURLI,
TQ. CHIKKODI,
DTST BELGAUM.
2. THE DIVISIONAL MANAGER ,
THE ORIENTAL INSURANCE
CO., LTD., DIVISIONAL OFFICE ,"
SHANEAG CHAMBERS,
KIRLOSKAR ROAD, '
BELGAUM.
    LRRESPONDENTS
MFA FELED._.'I7'(*3.(11}_ OI_+',_VNIv\"'/"ACT AGAINST THE
JUDGMENT AND ,_~.\.;'\7\fA'I-"\'3\timesE), V17/£a'9/2008 PASSED IN
M.V.C.NO. 1 85,7]'20f§E::,, ON "1'HB; "EILEEOF THE FAST TRACK
COURT Iva iI3'EI4GSAIUM,, "RARTLY ALLOWING THE
CLAIM PETITION "FQ.R"._CQM.PENSAT10N AND SEEKING
ENHANCEMENT OF' CO.1\a1.PENSA'FION.
THIS~APPE'AL"'COMING. ON FOR FURTHER ORDERS
THLS DAT, "['1f1E_COU"RT.__DELIVERED THE FOLLOWING:
JUDGMENT
```

are before this Court Seeking ~\_?."\_j~erIi1anCement;. Of the Compensation as against the Sum MVC.18S7/O6. The Tribunal has awarded the H \_\_COmpenSatiOTI of RS.3,93,000/~. § E R

- 2. Heard the learned Counsel for the parties and perused the appeal papers.
- 3. The claimants are the sons of Suryappa Wakase who died in the accident. \_Witl'i:i=egarvd.Vto: " the grant of compensation under the:fi1.ead».\_of\_l"'iog§..\_.Aof\_: dependancy' the ciaimants have co\_nt.endeAd that the "«:die£:ee;sed v T' was running a Kirana shop and /-- per month. The Tribunal license issued by the Grama Panchai3:('a,\_t'h that the Kirana deiceased, in the absence of proof of the monthly income at Rs.3,000/--\_ and deducted All')./ll?)Vi'C.ilfor the purpose of considering applied is 12. In this regard, it is to bléi./stated 4t1f;e:l\_iappropriate multiplier would be 13. In T' far as the incorne, it is no doubt true, as contended by the T Counsel for the

respondent--Insurance Company that ,l<:irana..li'lshop would still be available for being run by the faJfif1i1y.-inembers and as such, the income as claimed cannot be considered. However, what is required to be noticed is that when there is no material to indicate that family members did not have any other avocation, naturally, in such an event, it cannot be assumed that other family would run the Kirana shop. Therefore, in a circunistvanlce if this nature where the mother of the clill"d'1\*en' Was. ab; Kirana shop and was earning the in.come.for\_V\_the family, View it would be appropriate to of RS120/-- per day. If this is "tal<en\*, lth'e--: lrrionthly clo'ntrlibution would be at Rs.3,600/-. EVenAV\_ointiliof is to be deducted Rts:2V,400/ -- is taken for the purpose of calculationil'and"if""compensation is calculated, amount of :Rs.3,7t5lu,/Lf)O/t' isi-tofbe awarded under the head of 'loss of depenitl.anl"Cy\_'. the Tribunal has awarded a sum of would be entitled to balance of ";.§sV.t'3\_6,400';---'.--. juncture what is also to be noticed is Jwhiole considering the claim of the appellant for ll'tl.'i '--cornpen sation under other heads, it is noticed that the if has awarded a sum of Rs.15,000/- towards pain and 3»: % suffering and if the said amount is adjusted towards other heads wherein the claimants contend that there is sheortfall, that will take care of the said amount and as . shall not be treated as compensation...under\_7the" pain i" and suffering but for the other heads.

- 4. The enhanced with interest at the same Elgddelllllafded by the Tribunal. The amour1t\_h'eivV.iVAd.e\_phosited by the Insurance weeks from the date of wOn deposit the same shall be l
- 5. In the appeal stands disposed of, No order to costs. V