

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, I
KIRLOSKAR ROAD, '

BELGAUM.

LRRESPONDENTS

MFA FELED. _.'I7'(*3.(11}_OI_+',_VNIv\""/"ACT AGAINST THE
JUDGMENT AND ,_~.\.;'\7\fa'I-"\'3»E), 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.PENSATION AND SEEKING
ENHANCEMENT OF' CO.1\al.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~erIiianCement;. 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_: dependency' 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, Kirana shop would still be available for being run by the family members 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 circumstance if this nature where the mother of the claimant was ab; Kirana shop and was earning the income for the family, View it would be appropriate to of RS120/- per day. If this is the monthly contribution would be at Rs.3,600/-. Even if it is to be deducted Rs.2,400/- is taken for the purpose of calculation and if compensation is calculated, amount of Rs.3,750/- is to be awarded under the head of 'loss of dependency'. The Tribunal has awarded a sum of would be entitled to balance of Rs.3,600/-; the balance of Rs.3,600/- is to be noticed is whole considering the claim of the appellant for loss of compensation under other heads, it is noticed that the if has awarded a sum of Rs.15,000/- towards pain and suffering and if the said amount is adjusted towards other heads wherein the claimants contend that there is shortfall, that will take care of the said amount and as such shall not be treated as compensation...under the head of pain and suffering but for the other heads.

4. The enhanced with interest at the same rate awarded by the Tribunal. The amount deposited by the Insurance weeks from the date of deposit the same shall be

5. In the appeal stands disposed of, No order to costs. V