

Karnataka High Court

B N Ramachandra vs A G Nagabushana on 17 October, 2008

Author: B.V.Nagarathna

MFA.No. 3011.2006 IN THE HKEH COURT OF KARNATAKA AT DATED THIS THE 17TH DAY
01:' OCTOBBJE-ii2()»€§§;:--:: . BEFOREV THE HOIWBLE MRS.JUS'I'IC£j) 3.31.
M.F.A.No;3Q11I*20§5 BETWEEN:

B N RAMACHANDI?.'A= * 3/o NARAYANRAQ " , V' AGED AB_£}'U___'I' szzvmags,' % » R/AT
ADAY\$£.MARA□AHALLI 'V c/o_mJAz~;Vms. mgsmmvaa HIJBLI BANGAUGREJ=» fa'=g 1.' ..
APPELLANT (By S□RAJASHE;§{HARV_:K,..}tDV.) A {if TA.,G%r\$A\$}ABUsHANA . _
r~f<')';--6V?56;-V1.--fJ'FH 1:) MAN RAOD, . 6TH --1!3LcaCK RAJAJWAGAR, BAf€GALOI2E 10.

'X 2 THE: ORIENAL INSURANCE co LTD 'T JAYALAKSHMI MANSION 2ND FLOOR V' r
930.1001, 56, DRRRAJKUMAR ROAB, 4TH BLOCK, RAJ}UINAGAR,BANGALORE 10
RESPOP-fi').F.2NTS (By SMT: HARINI SHIVANANDA, ADV. FOR R2) THIS MFA FILED U/S
173(1) OF' MVACI' AGAKNST THE JUDGMENT AND AWARD I3A'1'EB:14/11/2005 PASSED IN
MFA.No.3011.2006 .. 3 ..

and Award the injured claimant has □bd this appeal seeking enhancement of compensation.

2. II)uring the pendency of this the injured/claimant died and subsequentijfhh ' representa□ves
have been brought on "They also □ed an a□lavit stating occurred on account of the and that the
deceased illness and that there is behueen 'e2s:ci;1enf and the death of thehuoihrveunrxstances
appeliants were time. evidence with mgard to the nexus se:weme%m¢e¢eam and the injuries
sustasnen in the the' eensidexation of this court to fake a decision ' has _ the appeal ought to be
remanded to the " . .T□b13vn'al«'fofVVthe purpose of gan□hg compensation on the of hvloes of
estate in accordance with the opinion of the éeneh of this court in the case of Uttam Kumar Vs.
'Medhav & another reported in ILR 2002 Kaxnataka 1864. ' Despite opportunity being granted to
the appellants they have not produced any medical records to substantiate their contention that the
death of the deceased was on account of the injuries sustained in the accident. % MFXLNO. 3811 .
2306

- 4 _.

3. Learnead counsel for the appellant submits that though the appellants have not been able to
produce any reconcis before this court nevertheless an be granted to them to prove their case that
enhanced compensation on of '□ffus ' between the accidental injuries . in; submits that the matter
he purpose.

4. Per contxta, iii□urance company submits that _'on the part of the appe□ants to of medical
evidence particuiarly ' 'e1i\$ae before this court, the V. iii-of wouiiih□evof no purpose and that there
is no of compensation and hence the to he!' point that arises for my oonsidczratizm is as to A matter
ought to be remanded to the Tribunal for 3 gansiderauon in View of the death of the injured

4..V.vi::l;z'V:xLi1nza111:? /3% MFZLNO. 3011. 2006 "5...

5. Though the appellants have not been able to document any evidence before this court to ~ contents of the affidavit submitted by the appellants on 13.8.2008 nevertheless in the affidavit filed on 13.8.2008 the affidavit contains the averments that the appellant was as a result of in the accident and that there was the death of the appellant, of justice an opportunity is afforded to the appellants to present their case in terms of the facts and circumstances of the case. The matter is remanded to the trial court to take note of the subsequent events, including the death of the appellant in the matter. The Bench opinion noted above and the compensation awarded to the appellant in the matter as a result of the injuries sustained in the accident in the case the appellants fail to establish a case in terms of the judgment in Uttam Kumar case, then the Judgment and Award of the Tribunal dated 14.11.2005 shall stand undisturbed. MEA.No. 3011.2006

6. Hence the appeal is allowed and the matter is remanded back to the Tribunal with a direction to the appellants to file a case in terms of the observations made in the judgment.