

Karnataka High Court

Akthar Begaum vs Mariyakutty on 15 July, 2009

Author: N.K.Patil And H.Billappa

N THE HIGH COURT OF KARNATAKA AT DATED THIS THE 15?" DAY 05-" JULY, "; H :  
PRESENT:

'rue Howaus MR. Jusrncesm. V k ANS me HOWBLE MR. .susncE% n.%m:.m=A 1  
M.F.A.No.s7e\*2Q::\_2og4 (Mu; BETWEEN:

F3 Cs} AKTHAR BEGAUM . \_ V% \_V ssvams, wso LATE AREFF @ AR£FUI'.LA . \_ V SHARRTF 1 a  
mo KARIG.o'e'€DANAK»DPPALU KQWr.'\$\$%%KA HAssAN.; ;~\_V. « = \_ \_A. ' "

F:\_EENA\_KAi..!\$ER \_ ;

MAJOR, we Asa□fTA;@---At:<:Fuu \_A SHARWF "

RIO :<ARmowaAN.axoPPALu KQWSHMA Hassma - V . SALMA Kaissaa \_ V. 'AGETD1--? mans,"  
"" "

Di(3.La3tTE' ARIFF Q ARIFULLA s:4.Am:='F. ' 1:29 "KARiGosA?DANAKOPPALU xowsazxa '  
--.;HAmA:~:..

.. vL\_;;;u.=s.:a;LA SHARIFF @ vusurrr '36 YEARS, €40 LATE ARSFF @ AFRFULLA SHERIFF  
RIO KARIGGNDANAKOPPALU KOWSHIKA V KHAASSAN, voussusunm SHARIFF @ mums 15  
YEARS, SIC} LATE ARFF Q AWFULLA SHARE-'~' RIG KARiG\$Ni3ANAKOPF'ALU KOW\$HiKA  
E-lA\$SAN, 6 AMEER SAB @ ABDUL SHARIFF 68 YEARS, SIG MI-ZERA SHARSFF RIO  
KARIGOWDANAKOPPALU KOWSI-RKA HASSAN, ': MEKARUNNISSA \_\_ , V V 53 was, we)  
AMBER SAB @ Aaautss-LARK-\*:-= mo KARIGOWDANAKOPPALU Kowsnw. ' HASSAN, "T A. -T. '  
' " Ar?:=¥£i:;;.ké,\$§5rs u (By Sri ; K v NARASIMHAN . Aovocaféza: » ' ' ' ANS: VV 1  
MARIYAKUTTY ' \_ .

WIOMPKARIYAKOSE -- V i mmea ANM PAUNDNI-AND 905-': BELTHANGADIEK owreereor  
M.§;HiNDRAJEEP NOKA\_21Mu43\$4\_-' \_ ~ " ~, . 2 JGSEPH K:mnm;Am'Ew---

we Mam:-fw \_ --

mATH:--:ww'oARpE\$. ' NELLUR. KEARAJE SULQYADK , owNaP:\_oF.MAH:NL\*RA'JEE:=  
\_-.KA21M=i3.;84'~\* '-

'~ \_ 3 UMITEDAI'NDiA--~:NSURANCE Co LTD . ' BRANCHOFFICE .. PUTTUR ., ' REi~?.\_B'v'  
ena□m MANAGER \_ \_ . \_ RESP"- 'ONDENTS (By 5}: : arixaéuwaseaa, ADVOCATE FOR R1 ; ~ M :  
.- ' GANGAGHAR SANGOLLI. ADVOCATE FOR R3; ' ' A " 'R2 .T saavam hii□T1433 MFA £8 FILED  
U38 '!?3{'!} GF NW ACT AGNNST THE V '\*'J{ }DGMENT AND AWARD DATE-' .D:22.6.94  
PASE-EED IN MVC No.2022□31 {OLD No.M.V.C.665io1} ON THE FSLE CF THE ABEL CIWL

JUDGE {SRDN} AND ADDL. MAST, Hassm, F->ARTLY ALLOWING THE CLASM PETtT!€3 \$fFOR compeusanon AND seems ENHANCEMENT o.: coMPENsAT:QN«;..\_\_ mes MFA comma on ma HEARM; THIS DAY, \_r3\_::i'< ; '#57-eji,f' ;3.\_\_, DELWERED THE FOLLOWING: ' \_ JUDGME□□This appeal arises out of dated 26"" June 2004 '(am A mess/2001) on the □g c:f..iti\*1:;;ig\*=.§é':\*:1 □ed Acmaaha: Civil Judge (Senior Division) a n y ; % A g w n s ¢ ¢ a i % T % L % k M . A . c . T . H a s s a n ( ' c i a i r n s Trib:sné;lf%:ii'for\*:A.1bré\$£\$fy)';«.x\$§\$§i-t□gi□found that, the appeiijsxrités' 1e1é§ié'nr:%ment of compensation under {£3 and 'loas of estate'. 5 2. \_ T□k case are mat, one Sri. Ariff @ . V. the accident that occurred on 11" xéif□ he was have-□ing in a Mahindm Jeep \_ beéring-.\_'NcL ¥(Fs-211M-4384 along wi□m his friend by name .. at about 3 PM an B.M.I-'wad near (1'--'h i'kl-ianayakana Haiti within the iimits of Rural Police % mépta□on, Saklashpura. gm said jaep was driven by its driver in a rash and negligent mannar wi□ioutg»""g--iving importance to safety and dashed against the side {rm as a result of which, the K grievous injuries to his head was shifted to the Hosp□l succumbed to the injuries iiiaimams appellants as the iegaVi;;y,;"¢:;;pj¢f\$,--'¢': have filed ihe ciam petition lakhs with interesit□of death cf sn'.Anruiaasha§:ri; petition had come up before 22"" June 2004 and the exam. TfiBu.naE,VV:aftéi\*.\_i'□i□grough evaiuation en' the entire \_reci57rti""and after considering the oral and éfiierice and ether materiai on file, taking □ve status cf □he deceased and the ::qu;ce" income, has awarded in aii, a sum of 4 VA with intarmt at 6% per annum from the date ':'\_4:"af««i3etition till the date of reaiziation. The appellants are /nw before this court we the ground that, the oonzperissation awarded under the heads loss of estate are inadequate.

3. The submission of appellants at the outset is that? erred in taking the age' of the solely on the basis of the □i=:':l§:fi:rV've:t\_vappallant in the cross examinatin; n\_\_ lplzl□ellllaged 45 years at □e w□mmed that in the claim Morten: report, the age "as 38 years and therefore, the C'lain1§\*--.4TribtV;x::f;a□ ie have talcem the age of the v as 33"yea:'sh1stead cl' 45 years. Fur□wer, in the □ae age of me daceased is speci□ally years. Therefore, if we age of the is taken as 38 yaars, then, me appropriate ' Féf;:'aslt'.ii;'5siia' would be '15'. Fur□var, he submitted that, the ..'u.1éa11e of the deceased ought to have been taken at %""-----~---« Rs.-4,00Dl~ per mound": instead of Rs.3,000l-- par rimnm. Accordingiy, the impugned judgment and awardé.' ta be modi□ed and the appellants ., enhancement of cmrpensatiidn ; dependency. \_ V a

4. Further, he towards loss of jand avepuants are entitled tp' some of □me appelianisi. V iddtireiy dependent. Thereferm, □empensation needs to be disc-

ma□a, Vie-arned counsel for Insurance inter x\$£TYéi', ""t\$ontended and submitted that, the and award passed by the Claims TrAitsa.'v1na,!;'i;§. and pmper and interference by □his Court 'abie since the same is dad after the oral and documentary avidence and otha /4% matmial available on □e and also on □he basigs admission by the first appeilant in her cross

6. After hearing the learnedbpwrasei' ~ and after careful perusal of th e; jtgaggnéni \* passed by the Ciaims T□h□□ai. :on.IyV arise for our considera□on \_ Whether the ATii!:fii:jaI.: 'A'V5\$A~justified in awarding \_a~z:\_prop□a{éj": ta wards {ass of iésfate ?

original records made available, age of the deceased is shown as 33% margin; claim petition filed by claimants 2001 as well as in the Ration Card Tribunal ought to have taken the V of the deceased as 38 years instead of 45. On the basis of the mere submission made by first appellant in her cross examination, contrary to the relevant clinching documentary evidence available on record. Therefore, there was no justification for the Claims Tribunal for taking the age of years at the time of accident. Therefore, consider the opinion that it is would be to take the age of the accident on the basis of V available on record of a agriculturist by profession and to the whole state deceaseds, that true income around Rs.50,000 to an income of Rs.10,000/-

per have not produced any proper tax returns in support of the V: View the occupation of mother as the records state the deceased was 33 and 'cum busman' and sum of monthly income, we deem it just and proper to take the income of the deceased at Rs.4,000/- per month and 1/3 of Rs.1,000/- is deducted from the same personal expenses having regard to the dependents, the income per month is Rs.5,400/- and using the appropriate Rs.5,400/- (i.e. 3,000 x 12/100), V of the deceased is Rs.54,000/- towards loss of dependency; Rs.3,12,000/-

awarded by ..

7. The Tribunal has into consideration the and having regard to the weight and proper to award additional of estate to meet the ends of

In view of the facts and circumstances of the case as stated above, the appeal filed by appellants is dismissed in part.

The impugned judgment and award passed by the Claims Tribunal dated 22<sup>nd</sup> June in M.V.C.No.2022/2001 (now No.665/2001) is awarding a sum of Rs.5,40,000/- towards loss of dependency (Rs.2,28,000/-) and a sum of Rs.1,00,000/- (enhancement of Rs.5,00,000/- for loss of estate with interest at 12% per annum from the date of till 15<sup>th</sup> day of December 2001. It is directed to a period of eight weeks from the date of the award. The amount with accrued interest, be deposited in the Fixed Deposit for a period of 3 years in any Nationalized Scheduled Bank to draw quarterly interest. /Znwwd.

So far as the compensation award under the Act is concerned, the same is just and does not call for interference. Draw up the award accordingly. 7. 3 BMW