

Karnataka High Court

Kalpesh vs Branch Manager on 11 July, 2008

Author: V.Gopalagowda & Nagaraj

I

IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT GULBARGA

DATED: 21st DAY OF JULY 2003
PRESENT

THE HON'BLE MR JUSTICE V.GOPALA T

AN9

THE HON'BLE MR JUSTICE V.GOPALA T

MFA No. s752ri\$as % A
Between: ' H

I. Kaipesh, ----- ' "
S!Q.la::Gya;ia;é&shwar, _ -
Rio. Irafii Col0'ny, _
Chidri Roazi, ' Bidar.

2 . "

v' w Sic; 'iate: __GyananéShW_ar, '

"I'J\$iiict*, fkjprés-rfgzted by his

' PafergaigitirgiePrabhakar,

' s;'a."Ra::g'a.nalh',; V %
Mgqhafic,
R.: 'of"}ra;z.i Cciiegzy,

Chidri" Rgéad, Bidar. ...APPELLANTS

(By Sri Basavaraj R.Math W Advocate)

9»--'7

- . % L Branch Manager,

National Insmrarzce C0.Ltd.,
Begum Bazar Branch,
Hyderabad"

(__~_b"-\. ,--\/-

2. The Branch Manager,
National Insurance Co.Ltd.,
Basaveshwar Chowk,
Gandhi Gunj Road
Bidar.

2. Jaffar,

Sfo. Hyder Hassain,
Driver-cum-Owner of
LorryN0.AP13 T1121,
H.No,1 I>-L289, Aghapura, _ A i " '
Hyderabad. ' _ .RESP(;fi'\$DE1\!TS

(By Sri. Gangadhar S,3I'Ji;\$ (ZI1Ii:'-'', foi'..R-J; Absent)
Sri Sudarsham, M --:_AdY_:3, (;v'a'*i.<\$:A for R-2)
Naticie ié ('R-3 , dispexi .\$\$ri-fix.

0%

MF1i5yisifilefl 'oi the MK/.Act against the order dated
21-3-2&{)5 pass-s:d'byV\$he '~M0for Vehicie Accident Ciaims Tribunal-

H1, Bjqai; MVC km). 29 752001.

»' gxsmizzg an for hearing before the Ccmrt this day,

ii't;:pb1;.hearing?"Atalii.~Nagara}, J, delivered the following:

JUDGMENT

AA _ T1i2a...ii:'appellants herein being the claimants in MVC Ne. on the £338 of the Learned III
Addiitionai Civil Iudge(Sr.Dvn.) ii i'4:"&";isfIACT-III, Bédar (hereéna☐: referred in as "MACT" for
short), liava seught for enhancement of ccsznpenstation awarded in their favour by the impugned
cummen judgment and award dated 21-3-2005 passed in the said case and ether cennected cases.
<>--{"''''-''''*~\

2. Heard the argmnents of Sri Basavaraj R.Math, learned counsel for the appellants and Sri
Sudarshan, leamegl 'é;:l:i'a2;:1\$el for insurance cempazzy who has undertaken to ☐e
V'akal;é;t'n:...;l?lg\$fi:\$éd the impugned common judgment and awarfl and thc"ré1\$%:xr\$1h»f
d9c"u_fr1enf\$~-- placed on record.

3- Since this appeal is by'lhve-.g1ajrhanlfs compensation and the 2"" ;_r\$:sponfi<hfl;€nsiigør nht
any appeal against the impugned 'are not 3d\,*.BI't.':i}g to the factum cf aacid\$.:r;t;,'
'_a:li;ui.:c:léz;1"if--..Qbt:ing "the rash and negligent driving Qf i.nvoliz':d inthe acc☐dent, the
injuries sustained by the clajmalmtl as}. a.ré'Shll,.45\$. \$hél.said accident etc, On A the impagned
judgment ft is seen that the '?\$r:ii:3,1;1al_VIV'}'ia..\$s-.€£l:£l:':{¢_n the ☐hccsme of the deceased
Sn3'£:..Suneetha - the

-aphhlla is ~» at the rate of Rs.50/- per day for estimating the loss. The deceased should have been taken to be eazze Rs.50/- V' per day, if not Rs.15/-, as claimed by the claimants. If that income is taken, it CGIISS to Rs.3,000/- per month. If 1/3 of it is deducted towards her personal expenditure, her contribution to the family earnings would be Rs.2300/- per month or Rs.24,000/- per annum. ~- per annum. ~-X,..

Since the deceased was aged 30 years as per the post-mortem report, the proper multiplier to be adopted would be '26' as rightly chosen by the Tribunal. Thus, the compensation under 'dependency' comes to Rs. 3,84,000/- (Rs. 24,000 x 16) and we hereby award the same as against the respondents.

the Tribunal. A

5. The Tribunal has awarded Rs.54,000/- towards funeral expenses and Rs.3,000/- towards the dead body of the deceased. We see that these amounts are Rs.5000/- and Rs.3,000/- respectively. The Tribunal has awarded any amount of compensation to the deceased on the basis of love and affection. Therefore, we in each of the appellants' case award the same amount of compensation which the deceased is entitled to receive from the respondent. The amount of compensation awarded by the Tribunal, comes to Rs.4,22,000/-. The claimants are entitled to interest on the enhanced compensation at the same rate as awarded by the Tribunal.

g---..(\--«r~\.

8. The appeal is allowed in part in the above terms. The award shall be made accordingly. The respondent shall deposit the enhanced compensation within the time specified. The respondent shall deposit the enhanced compensation within the time specified. The respondent shall deposit the enhanced compensation within the time specified.

sci/..

%* Judge %%" k=" "" Judge