
Naganna Vs Jaffar Shah

Miscellaneous First Appeal No. 15706/2007 (MV)

Court: Karnataka High Court (Gulbarga Bench)

Date of Decision: June 4, 2014

Citation: (2014) 3 AKR 687 : (2014) 4 KCCR 3346

Hon'ble Judges: Anand Byrareddy, J

Bench: Single Bench

Advocate: S.S. Sajjanashetty, Advocate for the Appellant; M. Sudarshan, Advocate for Respondent 3, Advocate for the Respondent

Judgement

Anand Byrareddy, J.

Heard the learned Counsel for the appellants and the learned Counsel for the respondents.

2. The appellants are the widower and the children of the deceased Jagadevi. It is claimed that while appellant no. 1 and Jagadevi, the deceased

wife of appellant no. 1 were walking home after work and when they were near their house on the Gulbarga-Humnabad Highway, a vehicle,

known as "turn turn" bearing no. KA-38/3015, driven in a rash and negligent manner is said to have dashed against Jagadevi and she had

sustained grievous injuries and had died on the spot. It was claimed that Jagadevi was employed as an agricultural labourer and was earning more

than Rs. 4,500/- per month and it is on that basis that a claim for compensation was lodged. The respondents were the driver of the vehicle, the

owner of the vehicle and the insurer of the vehicle. The driver remained ex parte while the owner and the insurer contested the claim petition.

On a consideration of the material evidence tendered and the rival contentions, the court below has awarded a total compensation of Rs.

3,80,000/-. The tribunal, under the head "loss of dependency" has awarded a sum of Rs. 3,60,000/-. In that, the tribunal has taken the income of

the woman at Rs. 100/- per day and deducting one-third of the income towards her personal expenses, has taken into account a sum of Rs.

2,000/- per month as the contribution of the deceased towards her family and has applied the multiplier of "15". Under the conventional heads,

namely, loss of consortium, loss of love and affection, funeral expenses and loss of estate, the Tribunal has awarded a sum of Rs. 5,000/- under

each head. It is that which is under challenge in the present appeal.

3. The learned Counsel for the appellants would point out that the income that has been adopted in computing the total loss of dependency is

abysmally low. Though the accident was of the year 2006, the deceased was earning sufficiently more than Rs. 4,500/- per month and hence, it

was unjust in restricting the income to Rs. 100/- per day on the basis of certain observations made in decisions of the year 2001 and 2002, which

are referred to in the course of the judgment. On the other hand, the apex court has recently taken a view that the contribution of a house wife is

immeasurable in terms of the services rendered to her family and therefore, a substantial amount should be attributed as the contribution of a house

wife. In the present case on hand, not only was the deceased a house wife, but was also an agricultural labourer and therefore, there was

justification in adopting a larger amount as the income of the deceased. There has been aberration in not adopting the appropriate income for the

purpose of computing the loss of dependency. In so far as the conventional heads such as loss of estate, loss of consortium, loss of love and

affection and funeral expenses are concerned, the Tribunal has, again, proceeded in a mechanical fashion in awarding Rs. 5,000/- each under the

several heads. This again is not realistic and does not address the justification in restricting the compensation to Rs. 5,000/- under each head.

4. The learned Counsel for the insurance company would point out that the claim that the deceased was an agricultural labourer was not supported

by any material evidence and the assertion that she was earning about Rs. 4,500/- per month is also not established. There can be no assessment

that even if she was an agricultural labourer, she would have worked on all the days of a week or a year. There is no justification in the Tribunal

having adopted a sum of Rs. 100/- per day as the income. The fact that the documents have been produced to indicate that the appellant no. 1

possessed lands and hence it can be presumed that the deceased was working on her land, would only indicate that she would not have been paid

money for having worked on her husband's land and only if she had worked elsewhere that she was capable of earning any money. The learned

Counsel would proceed further to contend that given the status of life of the deceased, to award a royal sum under the several conventional heads,

ought not to provide the claimants a windfall, which would not be available to them in the usual course. Hence, the expectation of the appellants

that a substantial sum ought to have been awarded under the several heads is not justified. The payment of compensation is not meant to be

conferment of a largess, but is intended to put back the appellants in the same position as they were before the mishap and hence, it is not justified

in the claimants seeking a phenomenal amount towards the conventional heads. The learned Counsel would therefore submit that there is no

warrant for interference with the impugned judgment of the Tribunal.

5. On these rival contentions, in so far as the contribution of a house wife, who was also said to be employed as an agricultural labourer, is

concerned, even if she had worked in her husband's land, her contribution ought to be taken into account, as with the death of the wife of the

petitioner no. 1, it would require him to employ another to do the work, which the wife of petitioner no. 1 was earlier carrying on. Even to that

extent, it was possible that her contribution could be computed in terms of money. If the income is taken at Rs. 130/- per day, which would be Rs.

4,000/- or more per month, after deducting one fourth of the amount, namely, Rs. 3,000/- and applying the multiplier "16", the claimants would be

entitled to a sum of Rs. 5,76,000/- towards the loss of dependency. In so far as the conventional heads are concerned, namely, loss of estate, loss

of consortium, loss of love and affection, and funeral expenses, can never be computed in terms of money. As rightly contended by the learned

Counsel for the respondents, the claim for compensation ought not to turn into a speculative venture in seeking phenomenal amounts under the

conventional heads and it should not result in the claimants being conferred with a largess, which would not find its way into their hands Therefore,

the award of compensation under the conventional heads are to be tempered with due regard to the status of life of the claimants. Consequently,

on a global scale, the claimants are held entitled to Rs. 80,000/- as compensation under the several conventional heads.

It is to be noticed that the Tribunal has awarded a sum of Rs. 5,000/- towards the funeral expenses. The same is unreasonable. Notwithstanding

the status of life of a person dead, the performance of religious ceremonies and other expenses involved in the funeral would cost much more than

Rs. 5,000/-. Therefore, these are aspects which warrant enhancement of compensation under the conventional head.

Accordingly, the appellants are held entitled to a total compensation of Rs. 6,56,000/-. Since the Tribunal has awarded Rs. 3,80,000/-, the

appellants are held entitled to an additional amount of Rs. 2,76,000/- with interest at 6% per annum from the date of petition till the date of

realisation.