

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JUNE, 2017

BEFORE

THE HON'BLE MRS.JUSTICE S.SUJATHA

M.F.A.No.7926/2010 [MV]

BETWEEN :

UNITED INDIA INSURANCE CO. LTD.,
NO.16, SBLT BUILDING,
POLYTECHNIC ROAD
CHINTAMANI-563125
CHIKKABALLAPURA DISTRICT,
DULY REP BY: THE REGIONAL MANAGER
UNIED INDIA INS.CO. LTD,
REGIONAL OFFICE
HUDSON CIRCLE (CORPORATION CIRCLE)
BANGALORE, BY ITS MANAGER

... APPELLANT

(BY SRI A.RAVISHANKAR, ADV.)

AND :

1. SMT.RAMASWAMY M.,
S/O LATE SRI MUNIYAPPA
AGED ABOUT 47 YEARS
2. BHARATHAMMA
W/O RAMASWAMY
AGED ABOUT 41 YEARS
3. MOHAN R.,
S/O RAMASWAMY
AGED ABOUT 20 YEARS
4. MUNIYAMMA
W/O LAE SRI MUNIYAPPA
AGED ABOUT 65 YEARS

ALL ARE R/AT No.18,
AMRUTHNAGAR, BANGALORE.

5. N.MURTHY
S/O NINGAPPA
AGED ABOUT 50 YEARS
KOTHANUR VILLAGE,
AGALGURKI POST-562101
CHIKBALLAPUR TALUK & DISTRICT

6. K.RAVIKUMAR
S/O N.KRISHNAPPA
AGED ABOUT 45 YEARS
NO.472, T G TANK ROAD
CHIKBALLAPUR TALUK &
DISTRICT-562101

...RESPONDENTS

(R-1 TO R-6 SERVED.)

THIS M.F.A. IS FILED UNDER SECTION 173(1) OF M.V.ACT AGAINST THE JUDGMENT AND AWARD DATED 12.04.2010 PASSED IN MVC NO.3551/2009 ON THE FILE OF THE XI ADDITIONAL JUDGE, COURT OF SMALL CAUSES, MEMBER, MACT, BENGALURU, AWARDED A COMPENSATION OF Rs.4,73,000/- WITH INTEREST @ 6% P.A. FROM THE DATE OF PETITION TILL PAYMENT.

THIS M.F.A. COMING ON FOR ADMISSION, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

J U D G M E N T

The insurer is in appeal challenging the Judgment and award passed by the Motor Accident Claims Tribunal, Bangalore [the 'Tribunal', for short] in MVC No.3551/2009.

2. The claimants being the parents, sibling and grandmother of the deceased, filed petition before the Tribunal seeking compensation for the death of Sri.Murali in the road traffic accident which occurred on 14.4.2009 alleging actionable negligence on the driver of maruti van bearing registration No.CAP. 5758, duly insured with the appellant herein, while the deceased was proceeding on the motorcycle bearing No. KA.04/TR-6552/2008/2009, which was also insured with the appellant-Insurance company. The appellant-Insurance company contested the claim. The Tribunal after evaluating the evidence on record, awarded a total compensation of Rs.4,73,000/- with interest at 6% p.a. fastening the liability on the appellant-Insurance Company (respondents No.1 and 3 in the claim petition). Aggrieved by the same, the insurer is in appeal challenging the quantum of compensation awarded by the Tribunal.

3. Learned counsel appearing for the appellant-Insurance company would contend that the Tribunal grossly erred in awarding compensation of Rs.75,000/- towards non pecuniary compensation and accordingly, he seeks for reduction of the same.

4. Though the claimants are served, there is no representation on behalf of them.

5. Having heard the learned counsel for the appellant and perusing the material on record, it is evident that the deceased was aged about 22 at the time of the accident and was a driver by profession. Though it was contended by the claimants that the deceased was earning Rs.50,000/- p.m. owning a canter bearing registration No.KA-43/2164 besides doing the driver work with M/s Praveen Lorry Transports at Chikkaballapur, no concrete evidence was placed to substantiate the same. In such circumstances, the Tribunal determined the monthly income notionally at

Rs.4500/-, which appears to be on the lower side compared to the date of the accident, age and occupation of the deceased. In the considered opinion of this Court, it would be just and proper to determine the monthly income at Rs.5,000/-. If the same is applied with the multiplier of '18', considering the age of the deceased in the light of the Judgment of the Hon'ble Apex Court in the case of **'MUNNA LAL JAIN AND ANOTHER vs. VIPIN KUMAR SHARMA'** reported in **(2015) 6 SCC 347**, loss of dependency would work out to Rs.5,40,000/- and applying the principles of law declared by the Hon'ble Apex Court in the **'RAJESH AND OTHERS Vs. RAJBIR SINGH AND OTHERS'** reported in **2013 [9] SCC 54**, the compensation awarded by the Tribunal under the other different heads is also meager. If the same is considered, total compensation awarded by the Tribunal at Rs.4,73,000/- under different heads cannot be held to be exorbitant under any stretch of imagination.

6. No valid ground is made out by the appellant to interfere with the quantum of compensation awarded by the Tribunal. Hence, the appeal stands dismissed as devoid of merits.

The amount in deposit shall be transferred to the jurisdictional Tribunal. The claimants are at liberty to withdraw the same. However, apportionment and disbursement shall be in terms of the order passed by the Tribunal.

**Sd/-
JUDGE**

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