

CASE NO.:
Appeal (civil) 5206 of 2003

PETITIONER:
Shakuntala & Ors.

RESPONDENT:
Vs.
Balkrishna & Ors.

DATE OF JUDGMENT: 25/07/2003

BENCH:
K.G. BALAKRISHNAN & P. VENKATARAMA REDDI. &

JUDGMENT:

J U D G M E N T

(Arising out of SLP(Civil) No. 2901/2002)

K.G. Balakrishnan, J.

Leave granted.

The claimants in a motor accident claim are appellants before us. They are the legal heirs of one Rajashekhar Kasture who died in a motor accident. The deceased Rajashekhar Kasture was aged about 24 years at the time of his death. He was employed as a Munim in Avinash and Co. On 20.7.1996, when he was travelling in a lorry to bring sugar for his employer, the lorry met with an accident and he fell down and died on the spot.

The claimants preferred claim contending that he was the only earning member and was earning Rs. 3000/- p.m. The respondent No. 2 namely, the lorry owner contended that the deceased was working only as a office boy and was having a salary of Rs. 600/- p.m. To support his plea, RW1, the owner of the company was also examined. The Tribunal after considering the evidence on either side held that the salary of the deceased must have been around Rs. 1200/- p.m. and by deducting 1/3rd for his personal expenses, the monthly dependency of the claimants must have been Rs. 800/- p.m. Taking the annual income as Rs. 9600/-, the total compensation was fixed at Rs. 1,53,600/- and an award was passed in favour of the claimants. Aggrieved by the same, the second respondent preferred an appeal before the High Court of Karnataka and the High Court reduced the compensation to Rs. 81,600/- under the heading 'loss of dependency'. The Judgment of the High Court is challenged before us.

We heard learned Counsel on either side. The High Court considered the evidence of RW1, the partner of the Avinash and Company with whom the deceased was employed. RW1 deposed that the monthly salary of the deceased was Rs. 600/-. RW1 had chosen to produce some receipts purportedly signed by the deceased but he cleverly withheld the salary register maintained by the company for the relevant period. The receipts were not originally produced but later he produced them and the Tribunal rightly declined to take note of the same. During the time of cross-examination, he admitted that the persons who were similarly employed were being paid Rs. 1,500/- p.m. It is also difficult to believe that the company would employ a person with such a meagre amount of Rs. 600/- p.m. It may also be noticed that the company under the management of RW1 was having 4 to 5 lorries and about 30 workers were employed under them. He must have been keeping some documents in respect of payment of salary to his workers but such documents were not produced. The Tribunal had considered the evidence in detail and came to a rational conclusion regarding the income of the deceased. The learned Single Judge without considering the evidence of RW1 simply brushed aside the whole evidence and accepted the

statement of RW1 solely on the ground that the employer himself had spoken regarding the salary and it must have been taken as correct. This approach made by the High Court is not at all justified having regard to the entire facts and circumstances of the case. The High Court, on flimsy reasons, interfered with the award passed by the Tribunal. The compensation awarded by the Tribunal was just and reasonable.

In the result, we allow the appeal preferred by the claimants and set aside the Judgment of the learned Single Judge. If the appellants have not been paid the amount, the same shall be paid as directed in the award by the Tribunal within two months. There will be no order as to costs.

JUDIS