IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION NOS. 189 & 190 OF 2015

Mrs. Madhuri T. Rivonkar and 3 Ors. … Applicants

V e r s u s

Oriental Insurance Co. Ltd., and Anr. … Respondents

Mr. S. D. Lotlikar, Senior Advocate with Ms. M. Furtado, Advocate for the applicants.

Mr. E. Afonso, Advocate for respondent no.1.

CORAM : K. L. WADANE, J

ORDER RESERVED ON : 06.05.2015

ORDER PRONOUNCED ON : 08.05.2015

O R D E R :

Both the above applications are filed by the original claimants/applicants for correction of inadvertent/accidental error in the judgment dated 30.01.2015 while calculating the amount of compensation, more particularly the deduction of the income tax paid by the deceased.

2. Mr. S. D. Lotlikar, learned Senior Counsel appearing for the applicants drawn my attention to the page 65 and 67 of the paper book and by referring to with regard to the deduction of the

income tax, the learned Senior Counsel has pointed out that the total tax on the income of the deceased was Rs.28,201/-. However, after rebate the net tax payable and paid was Rs.17,701/-. However, looking to the judgment of this Court, particularly in para 17, inadvertently, the tax paid by the deceased was mentioned as Rs.28,209/- instead of Rs.17,701/-. Therefore, the learned Senior Counsel has rightly pointed out that there is inadvertent mistake while deducting the tax paid by the deceased and as such the same be corrected. Therefore, the calculation and alteration of the figure appearing in para 17 of the judgment be modified accordingly as under :

(i) At page 15, in para 17 at line 3, the amount of Rs.28,209/- be corrected as Rs.17,701/-.

(ii) At page 15, in para 17, at line 4, the amount of Rs.1,99,851/- be corrected as Rs.2,10,359/-.

(iii) At page 15, in para 17, at line 6, the amount of Rs.59,955.30 ps. be corrected as Rs.63,108/-.

(iv) At page 16, in para 17, at line 1, the amount of Rs.2,59,806/- be corrected as Rs.2,73,467/-.

(v) At page 16, in para 17, at line 3, the amount of Rs.64,951/- be corrected as Rs.68,366.75.

(vi) At page 16, in para 17, at line 4, the amount of Rs.1,94,855/- be corrected as Rs. 2,05,100.25.

(vii) At page 16, in para 17, at line 6, the amount of Rs.27,27,970/- be corrected as Rs.28,71,403.50 ps.

(viii) At page 16, in para 17, at line 13, the amount of Rs.29,52,970/- be corrected as Rs.30,96,403.50 ps. rounded to Rs. 30,96,404/- so also the amount mentioned in words.

3. During the course of the arguments, Mr. Lotlikar, learned Senior Counsel has argued that there is no specific order as to the payment of the compensation to the claimant no.1 regarding loss of consortium and payment of compensation of Rs.50,000/- each to the claimant nos. 2 and 3 for loss of guidance and care. On perusal of the judgment, it appears that this Court has already observed that the claimant no.1 is entitled for compensation of Rs.1,00,000/- on account of loss of consortium and claimant nos. 2 and 3 are entitled to the compensation of Rs.1,00,000/- on account of loss of guidance and care. Hence, out of the above compensation, an amount of Rs.1,00,000/- be paid to the claimant no.1 and Rs.50,000/- be paid to the claimant nos. 2

and 3. It is mentioned by the applicants in the petition that during the pendency of the proceedings, the original claimant no.4 died. Therefore, the amount of compensation of his share is to be remitted to the Motor Accident Claims Tribunal, Margao, for determining the shares of the legal representatives and its distribution or apportionment. Further, it is contended by the applicants that during the pendency of the proceedings, the claimant no.2 become major and claimant no.3 is still minor. Hence, the amount of compensation be paid as apportioned by the Presiding Officer of the Motor Accident Claims Tribunal, Margao. However, the amount of compensation payable to the minor claimant no.3 shall be invested in her name in the fixed deposit for a period of three years or till she attains the age of majority whichever is earlier.

4. Mr. E. Afonso, learned counsel appearing for the respondent no.1– insurance company has argued that the multiplier adopted in this case was wrongly applied as 14 instead of 13. The arguments of the learned counsel are not acceptable because this Court has adopted the multiplier looking to the age of the deceased. Therefore, that cannot be treated as inadvertent error.

5. With the above modifications, both the applications stand disposed of. Registry to act accordingly.

K. L. WADANE, J

at*