

IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION NO. 421 OF 2015
IN
FIRST APPEAL NO. 41 OF 2010

1. Smt. Milagrina Araujo
 widow of late Mr. Joaquim F. Araujo,
 aged 47 years, housewife, & her children.
2. Miss. Angela Pedrina Araujo,
 daughter of late Mr. Joaquim F. Araujo,
 aged 24 years, student,
3. Mr. Armand Araujo,
 son of late Mr. Joaquim F. Araujo,
 aged 23 years, student,
4. Miss. Alveera Araujo,
 daughter of late Mr. Joaquim F. Araujo,
 aged 21 years, student,
5. Miss. Aslinda Araujo,
 daughter of late Mr. Joaquim F. Araujo,
 aged 18 years, student,
 All residents of House No. J/20,
 Gounloy, Novem,
 Salcete Goa (appellant no.1 as a mother
 and as attorney of appellant nos. 2 to 3) Applicants

V e r s u s

1. Mr. Mahesh S. Kambli,
 Son of Mr. Shankar Kambli,
 major in age, business,
 resident of House No.154, Dando,
 Caranzalem, (P.O. Tiswadi, Goa(Owner),
2. Mr. Aslam Ahmed Khan
 Son of Mr. Yawar Khan
 major in age, service,
 resident of near Masjid Bahadurpur,
 Post Manipur, Patna,
 District Sultanpur,

Uttar Pradesh,
Presently residing at House No.154,
Dando, Caranzalem, (P.O.)Tiswadi, Goa.
(Driver).

3. The Oriental Insurance Co. Ltd.,
Pereira Chambers, 1st Floor,
Fr. Jose Vaz Road,
P.O. Box No. 105,
Vasco-da-Gama, Goa (Insurer). ... Respondents

Mr. Milton Marshal, Advocate for the appellants.

Mr. E. Afonso, Advocate for the respondent no.3.

CORAM : K. L. WADANE, J

ORDER RESERVED ON : 16.07.2015

ORDER PRONOUNCED ON : 31.07.2015

O R D E R :

This application is filed by the applicants under the provisions of Order 41 Rule 27 of the Civil Procedure Code for permission to adduce the additional evidence.

2. It is contended by the applicants that the learned Presiding Officer of the Motor Accident Claims Tribunal, Margao, has awarded compensation to the tune of Rs.8,54,000/- together with interest at the rate of 6% per annum.

3. The applicants further contended that the revised pay

scale of the deceased was made applicable w.e.f. 01.01.2007 however, they were unaware about the same during the pendency of the appeal as well as at the time of the filing of the appeal. According to the applicants, the envelope containing the revised salary certificate was not opened till 28.06.2015 and when it was opened on 28.06.2015, only at that point of time they came to know about the revised pay scale. The grounds set out in the application for production of additional evidence is not at all convincing because the letter showing the revised salary of the deceased is dated 03.03.2010 and it is the contention of the applicants that they have not opened such envelope/letter of revised pay scale till 28.06.2015 (for more than 5 years) appears to be improbable and false. They have not stated as to why they have not opened such envelope for a long period particularly when it comes from the employer of the deceased. So even otherwise this revised salary certificate has to be proved by examining the witnesses which the applicants have not prayed at all. Mere production of such certificate will not directly go in the evidence. Hence, in such circumstances, the application stands dismissed.

K. L. WADANE, J

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