

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 182 OF 2006

The Oriental Insurance Co. Ltd.
Gouveia Chambers
3rd floor,
Panaji-Goa.

..... Appellant

V e r s u s

1. Shri Sagar Gangaram Fatrekar
R/o. H. No.
Panchawada, Usgao,
Ponda, Goa.
2. Vamanrao Santobarao Dessai,
R/o. H. Np.
Nagargao, Karmali, Valpoi,
Sattari, Goa.
3. Shri Shailesh Shantaram Kanekar,
Valpoi Bazar-Valpoi,
Satarri, Goa.
4. Shri Satyawan R. Mestri
R/o. H. No. 54, Gotmarod Aquem,
Margao, Goa.
5. Noor Mohammad BabusabRangabao,
(Driver), R/o. H. No. 87/C
Head Land Sada,
Vasco da Gama, Goa.

6. United India Insurance Co. Ltd.
Margao, Salcete.

..... Respondents

Mr. E. Afonso, Advocate for the Appellant.

Coram :- **F. M. REIS, J**

Date : **3rd September, 2015.**

ORAL JUDGMENT

Heard Shri E. Afonso, learned Counsel appearing for the Appellant.

None for the Respondents, though served.

2. During the course of the hearing of the above Appeal, Shri Afonso, learned Counsel appearing for the Appellants, has brought to my notice a Judgment passed by this Court on 06.05.2011 in First Appeal no. 259 of 2005 arising from the same accident whereby the compensation awarded to the Claimants was directed to be shared between the Appellant and the Respondent no. 6. Whilst disposing of the said Appeal which was arising from the said Award, this Court came to the conclusion that there was composite negligence between the two drivers one who was driving the bus and the other who was driving the tanker. For the reasons recorded in the said Judgment dated 06.05.2011, I find that the amount of compensation awarded by the Tribunal is to be shared between the Appellant and the Respondent no. 6 in the proportion of 50:50. The point for determination is answered accordingly.

3. In view of the above, I pass the following :

ORDER

(i) The Appeal is partly allowed.

(ii) The impugned Judgment and Award dated 19.03.2005, passed by the learned Motor Accident Claims Tribunal, is modified and the Respondent nos. 2 and 3 and the Applicants are directed to pay 50% of the compensation awarded by the Tribunal jointly and severally together with interest

thereon as directed by the Tribunal and the remaining compensation to be paid jointly and severally by Respondent nos. 4, 5 and 6 together with interest thereon.

(iii) The Appeal stands disposed of accordingly.

(iv) The Registry is directed to accordingly proportion the amount and after making such calculations and hearing the concerned parties, the excess amount, if any, to be refunded to the Appellants herein in accordance with law.

F .M. REIS, J.

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