IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 700 OF 2016
IN
FIRST APPEAL NO. 80 OF 2014

SMT. SUSHMITA @ AMRUTEM DEIKAR AND 3 ORS., ... Applicants

Versus

JIVAS GAONKAR AND ANR., ... Respondents

Mr. S. Redkar, Advocate for the applicants.
Mr. A. R. S. Netravalkar, Advocate for the respondent no.2 Insurance company.

Coram:- C. V. BHADANG, J.

Date:- 2nd December, 2016

P.C.

This is an application for withdrawal of the amount of compensation deposited by respondent Insurance Company. The deceased was said to be a mason, working with a PWD Contractor. He was 32 years of age on the date of the accident. The Tribunal has employed the multiplier of 16, which is not disputed by the Insurance Company, based on the age of the deceased and the decision of Hon'ble Supreme Court in the case of SARLA VARMA VS. DELHI TRANSPORT CORPORATION AND ANOTHER; [2009 ACJ 1298]. The Tribunal reckoned the income at Rs.300/- per day and assumed that the deceased would have worked for maximum 26 days in the month and has, therefore, taken the monthly income at Rs.7,800/- and the annual income at Rs.93,600/-. After 1/3rd deduction, the net income for the purposes of computation of compensation is taken at Rs.62,400/-. Perusal of para 26 of the impugned judgment would show that the Tribunal has not allowed any further increase towards future prospects. The Tribunal has ultimately arrived at compensation for Rs.12,43,400/- along with interest.

2. It is contended on behalf of the respondent Insurance Company that the income cannot be reckoned at Rs.300/- per day, as it is not established on record that the deceased was employed as a mason. Shri Netrawalkar, the learned Counsel appearing for the respondent Insurance Company, however, fairly submits that a part of the amount can be released in favour of the applicant.

3. Considering the overall circumstances, I find that an amount of Rs.6 Lakhs can be released in favour of the claimants, subject to usual undertaking. Hence, the application is allowed. Office to release an amount of Rs.6 Lakhs in favour of the claimants, subject to usual undertaking.

4. The learned Counsel for the respondent Insurance Company points out that the interest paid is subject to deduction of tax at source. Office shall examine this and release the amount subject to deduction of tax at source, if applicable.

C. V. BHADANG, J.

SMA