

IN THE HIGH COURT OF BOMBAY AT GOA**FIRST APPEAL NO.111 OF 2016**

1. Shri Devendra Naik,
Son of Ganpat Naik,
Aged 32 years,
resident of Torshem,
Naikwada, Pernem, Goa.
2. M/s. V.S. Duple and Sons,
Major in age,
Pickup owner,
Resident of Mala,
Panaji, Goa.
3. United India Insurance
Company, Panaji, Goa.

.... Appellants

V/s

Mr. Oswald Caldeira,
Son of Francisco Caldeira,
aged 28 years,
Occupation Assistant cook,
Presently unemployed,
Resident of H.No.116,
Jaycee Nagar, Ponda Goa,
Represented by mother
as a natural guardian,
Smt. Clara Eugenia Caldeira,
daughter of later Bernardo Dias,
aged 69 years,
resident of H.No.116,
Jaycee Nagar, Ponda Goa.

.... Respondent

Shri A.R.S. Netravalkar, Advocate for the appellants.
Shri Milton Marshall, Advocate for the respondents.

Coram:- NUTAN D. SARDESSAI, J.**Date : 13th July, 2018**

ORAL JUDGMENT :

Heard Shri A.R.S. Netravalkar, learned Advocate for the appellants for some time and Shri M. Marshal, learned Advocate for the respondent.

2. Shri A.R.S. Netravalkar, learned Advocate for the appellants pointed out to the Scene of accident Panchanama and the sketch apart from the Report of the Sub-Divisional Police Officer procured by him under the Right to Information Act, to point out the apparent manipulation in the Panchanama and the sketch relied upon by the respondent claimant before the learned Tribunal. It appears that the learned Tribunal was swayed by the Panchanama and the sketch produced by the respondent while appreciating the case of the parties and passed the judgment under challenge. Since a serious dispute is raised in the course of the hearing about the Panchanama and the sketch by Shri A.R.S. Netravalkar, learned Advocate for the appellants and there being some palpable manipulation observed in the Panchanama and the sketch produced on behalf of the respondent, i deem it appropriate in the circumstances of the case to remand the matter to the learned Tribunal who shall afford opportunity to the parties herein to lead appropriate

evidence and prove the said documents before it.

3. Liberty is granted to the appellants to produce the Panchanama and the sketch apart from the 'A' summary report drawn by the Sub-Divisional Police Officer, Ponda dated 18/07/2003 and the Panchanama and the sketch dated 23/04/2003. The learned MACT to afford adequate opportunity to the parties to lead evidence including the right of cross-examination and decide the matter afresh. It goes without saying that the impugned judgment and award is required to be quashed and is thus quashed and set aside and the matter remanded to the learned MACT for a trial, afresh.

4. Shri A.R.S. Netravalkar, learned Advocate for the appellants seeks leave to replace the original Panchanama and the sketch produced in the above appeal as per the order dated 08/09/2017 passed in Misc. Civil Application No.703/2017 and to place a photocopy on record in order to enable him to produce the original records before the MACT, North Goa. Leave granted.

5. In the result the appeal stands disposed off accordingly.

The parties are directed to appear before the Trial Court on 01/08/2018.

NUTAN D. SARDESSAI, J.

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