

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.5/2013

1.Smt. Rasheedabanu alias Rashida Banu
Ankalgi, widow of Shabbeer Ahmed Ankalgi,
alias Shabbirahmed Ankalgi, aged 44 years,
widow

2. Shri Tausifahmed Ankalgi
son of Shabeer Ahmed Ankalgi alias
Shabbirahmed Ankalgi
aged 23years.

3. Rizavana Ankalgi
daughter of Shabeer Ahmed Ankalgi
alias Shabbirahmed Ankalgi
aged 21years,

4. Miss Afroza Ankalgi
daughter of Shabeer Ahmed Ankalgi
alias Shabbirahmed Ankalgi
aged 16 years, minor, represented herein by
her natural guardian Smt. Rasheedabanu
alias Rashida Banu Ankalgi
Applicant No.1 abovenamed,
all above permanent residents of
House No.779/A, Rehmath Nagar
(Amrut Plot) Alnavar 581 103
Dharwad, Karnataka
And temporary residents of
C/o Francisco Xavier Rodrigues House
No.901/A, Dandewaddo
Cuncolim Goa.

5. Shri Abdulasab Ankalgi (since deceased)
through LRs:

5f. Shri Bashir Ahmed Ankalgi,
son of late Abdulsab Ankalgi,
aged 49 years, married, service, Indian
National and his wife

5g. Smt. Dulhan Banu Ankalgi
aged 38 years, married, housewife,
Indian National
both residents of Tiptop Tiles Factory,
Davalli Ponda Goa.

5h. Shri Fayaz Ahmed Ankalgi
son of late Abdulsab Amkalgi,
aged 42 years, married, service,
Indian National
and his wife

5i. Smt. Nursat Bano Ankalgi,
aged 30 years, married housewife,
Indian National
both residents of Nehru Nagar, Alnavar,
Kale Plot, post Alnavar, Taluka/District
Dharwad, Karnataka 581103.

5j. Shri Riyaz Anmed Ankalgi,
son of late Abdulsab Ankalgi,
aged 40 years, married, businessman,
Indian National, and his wife

5k. Smt. Nouseen Bano Ankalgi,
aged 30 years, married housewife,
Indian National, both residents of
House 1101, Indira Nagar, Alnavar,
Taluka/District Dharwad, Post Alnavar,
Karnataka 581103

5l. Shri Shakeel Ahmed Ankalgi,
son of late Abdulsab Ankalgi,
aged 30 years, married service,

Indian National, and his wife

5m. Smt. Aaisha Bano Ankalgi,
aged 25 years, married, housewife,
Indian National, both above residents of
C/o Abdul Rehaman Soudagar,
Zatpat Colony, Angol, Belgaum 590006.

5n. Smt. Shahin Bano Desai
daughter of late Abdusab Ankalgi,
aged 55 years, married, housewife,
Indian National, and her husband

5o. Hasansab I. Desai,
son of Imam Husain Desai
retired service man, aged 60 years,
married, Indian National,
both residents of House No.545,
Indira Nagar, Alnavar, Taluka/District
Dharwad, Karnataka 581103;

5p. Smt. Parveen Bano Aralikathi
daughter of late Abdulsab Ankalgi,
aged 28 years, married, housewife,
Indian National, and her husband

5q. Shri Haidarali S. Aralikathi,
son of Sayed Ali Aralikathi,
aged 28 years, married, service,
Indian National
both residents of House No.781,
Factory Road, Londa, Taluka Khanapur,
District Belgaum, Karnataka
Above legal heirs at Sr. No.4f to 4q are
Represented herein by their Constituted
Attorney Smt. Mantajabegam alias
Mamthajabegam Ankalgi Mantajabegam
alias Mamthajabegam Ankalgi
Widow of Abdulsab Ankalgi, aged 75 years,

widow, Indian National, resident of House
No.1783, Alnavar Dharwad Grameena,
District Dharwad (Legal Heir at Sr.No.5e)

5r. Smt.Yasmeen Bano Nadaf
daughter of late Abdulsab Ankalgi
and Widow of Nasir Ahmed Nadaf
aged 31 years, widow, Indian National

5s. Master Saheem Nadaf
son of late Nasir Ahmed Nadaf
minor aged 14 years, student, Indian
National

5t. Master Sami Nadaf
son of late Nasir Ahmed Nadaf
minor aged 12 years, student, Indian
National, both minors represented
herein by their natural guardian
Smt. Yasmeen Bano, aged 31 years,
All above residents of C/o Fayaz A. Ankalgi
Nehru Nagar, Alnavar, Kale Plot,
Taluka and District Dharwad,
Post Alnavar, Karnataka 581103.

6. Smt. Mantajabegam alias Mamthajabegam
Ankalgi, aged 70 years, resident of house
No.1783, Alnavar, Dharwad, Grameena,
District Dharwad.

...APPELLANTS

Versus

1. Mr.Amit Dnyneshwar Chinchonkar,
son of Dnyneshwar Chinchonkar,
major in age, driver of vehicle bearing
registration number GA-09-A-0834
resident of House no.55/2,
near Saraswati Mandir, Cotta, Tiloi,
Quepem Goa 403405.

2. Shri Damodar Chinchonkar
son of Dnyaneshwar Chichonkar
major in age, owner of vehicle bearing
registration number GA-09-A-0834,
resident of House No.55/2, near
Saraswati Mandir, Cotta, Tiloi,
Quepem Goa 403405.

3. ICICI Lombard General Insurance
Company Ltd., Insurer of vehicle bearing
registration number GA-09-A-0834,
Zenith House, Keshavrao Khade Marg,
Mahalaxmi, Mumbai 400034.

...RESPONDENTS

Mr. S. Kakodkar, Advocate for the Appellants.

CORAM: M. S. SONAK, J.

DATED: 18th January 2022

JUDGMENT:

1. Heard Mr. Kakodkar for the appellants. Respondents though served, are neither present nor represented. This appeal is of the year 2013, and therefore, the same cannot be adjourned any further.

2. The challenge in this appeal is to the Judgment and Award dated 03.10.2012 made in Claim Petition No.208/2010 to the extent it awards compensation of only ₹8,03,675/- to the appellants (claimants) even though, the just compensation, in this case, would come to approximately ₹14,40,000/-.

3. The record bears out that the deceased Shabeer, who died in the motor accident on 25.08.2010 was aged 48 years at the time of his demise and was working as a plumber. The Tribunal has accepted most of the contentions of the claimants but has awarded compensation of only ₹8,03,675/-. Hence the present appeal.

4. The record bears out that Shabeer was earning ₹8,000/- per month and this position has been accepted by the Tribunal in the impugned award. The Tribunal has however failed to make any addition towards future prospects. In terms of the law laid down by the Hon'ble Supreme Court in ***National Insurance Company v/s. Pranay Sethi & Ors. - 2017 (16) SCC 680*** (at paragraph 59.4) 25% addition was due towards future prospects. This means that to the yearly income of ₹96,000/- that Shabeer was earning, an addition of ₹24,000/- was due. The annual income should therefore have been taken as ₹1,20,000/- and not merely ₹96,000/- as held by the Tribunal in the impugned award.

5. In this case, Shabeer was survived by his widow, three children, and two parents. Therefore, deduction towards personal expenses could be to the extent of 25% only. The yearly income should therefore have been taken as ₹90,000/-. In this case,

considering the age of Shabeer, the multiplier applicable would be 13. Thus, the compensation towards dependency would come to ₹90,000 x 13 = ₹11,70,000/-.

6. In addition, compensation of ₹15,000/- was due towards loss of estate and another ₹15,000/- towards funeral expenses. Towards consortium, the widow, three children, and the parents are entitled to a compensation of ₹40,000/- each i.e. ₹2,40,000/-.

7. The aforesaid means that the just compensation, in this case, would come to ₹14,40,000/- as against the compensation of ₹8,03,675/- awarded by the Tribunal.

8. During the pendency of this appeal, Shabeer's father expired. Though all his legal representatives have been brought on record, according to me, his share of compensation should now be made over to his widow i.e. Shabeer's mother. This means that Shabeer's mother will now be entitled to a total of 10% of the total compensation awarded. Balance 90% shall be shared equally by Shabeer's widow on one hand and his three children on the other. The interest rate that is awarded is not disturbed.

9. The appeal is therefore partly allowed and the impugned award is modified by enhancing the compensation amount from ₹8,03,675/- to ₹14,40,000/-. The apportionment is also modified so that Shabeer's mother will now get 10% of the total compensation awarded together with proportionate interest thereon.

10. There shall be no order as to costs.

11. The respondents, including in particular the Insurance Company is directed to deposit the enhanced portion of the compensation together with interest thereon within two months in this Court. Once, such a deposit is made, the Registry to ensure that the same is paid into the bank accounts of the claimants in terms of this Judgment and Award. This exercise should be completed expeditiously particularly because Mr. Kakodkar points out that Shabeer's mother is now in her 80s. The Registry to file necessary compliance reports soon thereafter.

M. S. SONAK, J.