

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
FIRST APPEAL NO.50 OF 2019
WITH
MISC. CIVIL APPLICATION NO.1255 OF 2022 (F)

Sandip Dattu Gaonkar,
S/o Dattu Gaonkar, 54 years of
age, Service, r/o House No. 163/2,
Khakwadem, Canacona, Goa Appellant.

Versus.

1. Shri Asrif Mutlib Khan,
s/o Mutalib Khan, R/o Flat No. 3,
Fatima Residency, Opp. Holy
Cross, Ambaji Fatorda Goa

2. The SBI General Insurance Co.
Ltd., State Bank of India, Margao-
Goa.

..... Respondents.

Mr. Sanman R. Keny, Advocate for the Appellant.

Ms. Megha Y. Salkar, Advocate for Respondent No.2.

CORAM : M. S. SONAK, J.

DATE : 26th August 2022

ORAL JUDGMENT: -

1. Heard Mr Keny for the Appellant and Ms Salkar for Respondent No.2. Respondent No.1 is neither present nor represented

by any Advocate.

2. The Appellant challenges the judgment and award dated 10th October 2018 in Claim Petition No.100/2013 made by the Motor Accident Claims Tribunal at Margao (Tribunal).

3. Mr Keny submits that towards the disability of 7.5 % incurred by the Claimant, no compensation has been awarded. He offers that compensation by adopting the formula in *National Insurance Company Limited vs. Pranay Sethi & Ors.*¹ works out to ₹4,56,845.40.

4. Mr Keny submits that in addition to the above, no adequate compensation is paid towards transportation, dental bills, medical bills, and consultation with Dr Sudhi Kholar at Pune.

5. Ms Salkar, learned Counsel appearing for Respondent No.2, states that in this case, there was no functional disability whatsoever and it is evident from the evidence of Dr. Vikas Dupar (AW.4). She points out that the Claimant was a government servant and his salary and payments were not affected. She pointed out that the Claimant lost some leave period for which he has already been compensated under the impugned award. She submits that this Appeal should be dismissed because no case is made for enhancement.

6. Rival contentions now fall for my determination.

1. (2017) 16 SCC 680

7. On the aspect of disability compensation, the contention of Ms Salkar will have to be upheld. Though the disability was certified at 7.5%, there is virtually no functional disability established in this case. Furthermore, the Claimant was a teacher, and the medical evidence shows that his teaching ability was not diminished due to his injuries in the accident.

8. However, the Tribunal should not have rejected the compensation towards transportation or rather only awarded ₹2500/- towards transportation. The Claimant had produced bills in a total amount of ₹23,500/-. Merely because the bills may not have been tallied precisely with the OPD papers, the bills should not have been rejected. Therefore, the Claimant is entitled to additional compensation of ₹21,000/- towards transportation.

9. The Tribunal should have also allowed the medical expenses against the bills in amounts of ₹724/-, ₹1,893/-, and ₹2,200/-. Therefore, these bills were within the bounds of reasonability and could be taken as proved.

10. Accordingly, the Claimant is entitled to additional compensation of ₹25,817/-

11. The Appeal is accordingly partly allowed. Consequently, the compensation amount is enhanced by ₹25,817/-. On this amount, the Appellant-Claimant will be entitled to the interest awarded by the

Tribunal.

12. The Respondents, including Respondent No.2, should deposit the enhanced component of the compensation in this Court within six weeks from today, after giving due intimation to the learned Counsel for the Claimants.

13. Upon deposit, the Claimant will be entitled to withdraw this amount by furnishing appropriate identity documents and bank details. Registry to ensure that the amounts are directly transferred to the Appellant's bank account.

14. The Appeal is disposed of in the above terms. In view of the disposal of the Appeal, Misc. Civil Application also stands disposed of. Accordingly, there shall be no order for costs.

M. S. SONAK, J.