Niti

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.29 OF 2018

National Insurance Co. Ltd.
A company incorporated under
the Companies Act, 1956
(now Companies Act, 2013)
Having its registered address at 9,
Wallace, Street, Mumbai, Maharashtra. ...Appellant

Versus

1) Pandharikant Sawant,
s/o Shri Jagannath Sawant,
major in age 56 years,
r/o H. No. 359, Karwada,
Amona, Bicholim Goa.
(since deceased through his legal heirs)

1A. Poonam Pandharikant Sawant,
w/o late Shri. Pandharikant Sawant,
major in age 31 years,

1B. Chaitan @ Paresh Pandharikant
Sawant, s/o late Shri Pandharikant Sawant,
minor represented through his natural
legal guardian Smt. Poonam Pandharikant
Sawant.

both r/o H.No. 359, Kharwada,
Amona, Bicholim Goa.

2) Shri Rajnish Singh,
s/o Jalata Singh, major in age,
r/o Kamati Chawl, Satyanager,
D.P road, Sakinaka Kurla,
Mumbai Maharashtra.

3. Bhambri Super Roadways Pvt. Ltd.,
Behind Krishna Petrol Pump, Kalyan,
Mumbai, Maharashtra. ...Respondents

Mr. A. Naik holding for Mr. Amey Kakodkar, Advocate *for the Appellant*.
Mr. Guru Shirodkar with Ms. Varsha Parab, Advocates *for Respondent Nos.1(A) & 1(B).*

CORAM: M. S. SONAK, J.

DATED: 7th APRIL 2022

ORAL JUDGMENT :

1. Heard Mr. A. Naik, learned Counsel for the appellant and Mr. Guru Shirodkar along with Ms. Varsha Parab, learned Counsel for respondent nos.1(A) & 1(B).

2. Admittedly, in this case, no leave was obtained under Section 170 of the MV Act. Therefore, following the law laid down by the Division Bench of this Court in ***I.C.I.C.I. Lombard General Insurance Co. Ltd., Amravati V/s. Surekha w/o. Prakash Ghurde and Ors.***[1] this appeal will have to be dismissed, as not maintainable.

3. Mr. Guru Shirodkar, learned Counsel for the claimants, however, points out that there is an obvious error in taking the

1 (2020) 2 Bom.CR 465

multiplier as 17 when, in fact, the same should have been 18 in terms of the law laid down in ***National Insurance Company Limited V/s. Pranay Sethi & Ors.***[2]***.*** He points out that even the award towards consortium, loss of estate and funeral expenses is much lesser than what is provided in *Pranay Sethi* (supra). He points out that, this is a case of death of 27 year old son of the claimant/father. He points out that even the father ultimately expired and now the matter is pursued by the wife of the original claimant.

4. Since there are obvious errors in the computation of compensation, the multiplier is now taken as 18. Besides, towards loss of consortium an amount of ₹40,000/- is determined. Similarly, towards loss of estate and future expenses compensation of ₹15,000/- each is liable to be awarded. This means that the just compensation would work out to ₹5,56,000/- instead of ₹5,00,000/- as determined by the Tribunal.

5. In the peculiar facts of this case and having regard to the circumstance that the claimant lost his 27 year old son in the road accident, though the appeal has been dismissed, the compensation is reworked to ₹5,56,000/- in place of ₹5,00,000/-. The impugned award will stand modified to the aforesaid extent.

2 (2017) 16 SSC 680

6. The Insurance Company has deposited the originally awarded amount. The Insurance Company is granted further four weeks time to deposit the enhanced portion together with interest. The claimants are now held entitled to withdraw these amounts, after adjusting the amount already withdrawn, **after six weeks** provided there is no other restraint order, in the meanwhile. The claimants will have to furnish their identification papers and bank details so that the amounts can be directly deposited in their bank accounts.

7. The dismissal of the appeal of the Insurance Company will not preclude the Insurance Company from instituting any other proceedings, if maintainable in law.

8. The appeal is disposed of in the aforesaid terms. There shall be no orders for costs.

M. S. SONAK, J.

NITI K HALDANKAR Digitally signed by NITI K HALDANKAR Date: 2022.04.08 11:03:03 +05'30'