

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
FIRST APPEAL NO. 143 OF 2017
WITH
MISC. CIVIL APPLICATION NO.1509 OF 2022 (F)

TATA AIG General Insurance Co, Ltd.,
2nd Floor, Magnum Centre, M.G. Road,
Panaji-Goa, through its Authorized
Signatory, Mr. Alok Kumar Gupta, Appellant.

Versus.

1. Mr.Sanjay Shridhar Naik (Since
Deceased) Through his legal heirs
namely,

1(a). Smt.Samata alias Mamta Sanjay
Naik, Widow of Late Sanjay Shridhar
Naik, 45 years, housewife and her
children,

1(b) Master Saidatta Sanjay Nalk,
Son of Late Sanjay Shridhar Naik,
Aged 18 years, Student,

1(c) Miss Mansi Sanjay Naik,
Daughter of Late Sanjay Shridhar
Naik, Aged 17 years, Minor in age,
Student, Through his
Guardian/Mother,
Smt. Samta alias Mamta Sanjay Naik,

All residents of H.No.227,
Dassolwada, Kundaim, Ponda, Goa.

2. Munir Aminsab Shaikh,
s/o. Aminsab Shaikh, aged 33 years,
driver, resident of House number
(not known) Shapur, Bandora, Ponda,
Goa.

3. Darshan Fernandes,
son of Cleautus Fernandes, major in
age, business, resident of Shalome, W-
7/195/1, Yeshwant Nagar, Ponda,
Goa.

..... Respondents.

Mr. Vaman Kurtikar, Advocate for the Appellant.

**Ms. Valencia Fernandes, Advocate for the Respondents
No.1(a) to 1(c).**

CORAM : M. S. SONAK, J.

DATE : 11th August 2022

ORAL ORDER. :-

1. Heard Mr. Kurtikar for the Appellant and Ms. V. Fernandes for Respondents No.1(a), 1(b) and 1(c) (Claimants).

2. In so far as Respondent No.2 is concerned, the matter stands dismissed for failure to take steps. Irrespective of such dismissal, it is now pointed out that in this case, the insurance company had not obtained any leave under Section 170 of the Motor Vehicles Act, 1988 before the Motor Accident Claims

Tribunal. This appeal is mainly on the issue of quantum of compensation.

3. Therefore, by following the law in *I.C.I.C.I. Lombard General Insurance Co. Ltd., Amravati vs. Surekha wd/o. Prakash Ghurde and ors.* (2020) 2 Bom CR 465, this appeal will have to be dismissed as not maintainable.

4. Accordingly, this appeal is dismissed as not maintainable in law.

5. Mr. Kurtikar submits that the awarded amount has already been deposited in this Court. Now that this appeal is dismissed, the Claimants will be entitled to withdraw this deposited amount together with interest that shall have accrued on this amount, after six weeks from today. Such withdrawal will, undoubtedly, be subject to any other orders restraining such withdrawal, in the meanwhile.

6. The Claimants, at the time of withdrawal, will have to submit identity documents and bank details so that the Registry can directly transfer the amounts into their bank accounts.

7. This appeal is disposed of in the aforesaid terms, without any order for costs.

8. Misc. Civil Application No.1509/2022 (f) does not survive and the same is disposed of.

M. S. SONAK, J.

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