Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.43 OF 2022

M/s, Kadamba Transport Corporation Ltd.
A Company having their Registered office at Paraiso de Goa, Porvorim, Goa, represented herein by their Managing Director Mr. Derrick Pereira Neto, major, married, service, having address at Porvorim, Goa. … Appellant

Versus

1. Shreepad @ Shripad Apa Pirankar S/o Late Shri Apa Pirankar, aged 55 years, labour work

2. Smt. Sharda Shripad Pirankar, w/o Shri Shripad Pirankar, aged 54 years, housewife, both r/o H.No.160, Taluka Dodamarg, Sindhudurg District, Maharashtra presently C/o Dilip T. Mopkar, Mopa, Pernem Goa.

3. Shri Santosh Chandrakant Naik, Major 58 years, Driver of KTC Bus, r/o H.No.469, Amaiwada, Khandola Goa. … Respondents

Mr. Ajit R. Kantak and Mr. Raunak A. Kantak, Advocates for the Appellant.
None for the Respondents.

CORAM: M. S. SONAK, J.

DATED : 22nd September 2022

ORAL JUDGMENT

1. Heard Mr Raunak Kantak, learned counsel for the Appellant.

2. On 29.06.2022, this Court issued notice to the Respondents that the notice should indicate that endeavour shall be made to dispose of this appeal at the admission stage.

3. Again, by order dated 25.08.2022, the above position was made clear after Mr Kantak pointed out that the Appellant's objection was basically to the computation of compensation for which no paper book may be necessary.

4. The record indicates that the Respondents have been served. However, neither the Respondents nor any Advocate on their behalf appears in this matter.

5. Mr R. Kantak, learned counsel for the Appellant, points out that the tribunal erred in making a deduction of only one-third from the determining income of the deceased even though the evidence on record accepts that the deceased was a bachelor. He submits that in terms of ***Sarla Verma and others Vs Delhi Transport Corporation***

and another[1] and ***National Insurance Company Limited Vs. Pranay Sethi and others***[2]***,*** a deduction of 50% was due towards the personal expenses of the deceased.

6. Mr Kantak submits that the tribunal was not justified in awarding compensation of ₹50,000/- each towards loss of love and affection after the tribunal made an award of ₹40,000/- each towards the filial consortium. He submits that this additional award is contrary to *Pranay Sethi* (supra) law and ***Magma General Insurance Co. Ltd. Vs Nunu Ram alias Chuhru Ram and others***[3]***.*** Mr Kantak points out that even the addition of 10% to the consortium amount was not proper since the accident, in this case, took place in the year 2016, and *Pranay Sethi* (supra) was delivered in the year 2017.

7. For all these reasons, Mr Kantak submits that the compensation, in this case, would not be exceeded ₹19,33,796/-. He submits that since the accident took place on 11.10.2016, the award of interest at the rate of 9% per annum was excessive.

8. In my judgment, there is much substance in most of the contentions urged by Mr Kantak, learned counsel for the Appellant. The tribunal accepted the claimants' evidence about the deceased drawing a monthly salary of ₹11,258/-. To this amount, the tribunal

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1 AIR 2009 SC 3104

2 2017 SCC OnLine SC 1270

3 2018 (4) T.A.C. 345 (SC)

correctly added 50% towards future prospects and determined the deceased monthly income at ₹16,887/-. However, the tribunal was not justified in deducting only one-third of the personal expenses of the deceased. Admittedly, the deceased was a bachelor at the time of the accident. Therefore, following the law in *Sarla Verma* (supra) and *Pranay Sethi* (supra), the deduction should have been 50%. Thus, the deceased monthly income should have been taken at ₹8443.50. The yearly income, therefore, had to be computed at ₹1,01,322/-. There is no dispute about the multiplier being 18; therefore, the compensation towards loss of dependency would work out to ₹18,23,796/-.

9. To the above amount, the claimants were entitled to the addition of the compensation of ₹40,000/- each towards loss of filial consortium, ₹15,000/- towards loss of estate, and ₹15,000/- towards funeral expenses. However, in this case, since the accident took place in 2016, there was no question of an addition of 10% by applying *Magma General Insurance Co. Ltd.* (supra). Further, there was no justification to award ₹50,000/- each towards loss of love and affection given the law in *Pranay Sethi* (supra).

10. Mr Kantak is also justified in contending that the award of interest at the rate of 9% per annum is on the higher side, given that the accident, in this case, occurred on 11.10.2016. Usually, the interest at the rate of 7% per annum would be appropriate. However, in the peculiar facts of this case, the interests of justice would require the award of interest at the rate of 8% per annum. The deceased was 25 years old, and the claimants were his two parents.

11. Accordingly, this appeal is allowed, and the compensation amount is reduced to ₹19,33,796/- with interest at the rate of 8% per annum from the date of petition till full and final payment.

12. Mr Kantak states that the claimants have already taken out execution proceedings before the trial Court, i.e. Execution Application No.5/2022. He says that within four weeks from today, the Appellant will deposit the compensation amount before the Executing Court. The Appellant to deposit the compensation amount now determined in the Executing Court within four weeks from today. Upon making such deposit and filing in this registry the evidence of such deposit, the Appellant will be entitled to withdraw the amount of ₹25,000/- deposited in this Court at the time of institution of this appeal along with the interest that shall have accrued on this amount.

13. The appeal is allowed in the terms above.

14. Accordingly, there shall be no order for costs.

M. S. SONAK, J.

TARI AMRUT NAGESH Digitally signed by TARI AMRUT NAGESH Date: 2022.09.26 12:10:07 +05'30'