Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 3 OF 2022

1. Mrs. Salu Baba Velip,
widow of late Baba Volu Velipo,
aged 73 years, housewife, represented through lawful P.O.A. Sameer Bab Velip.

2. Sameer Bab Velip,
son of late Baba Volu Velipo,
aged 40 years, bachelor, agriculture,

Both residents of House No.43/2, Karvem, Gaondongrim, Canacona, South-Goa. …. Appellants.

Versus.

1. Sapnesh Ratnakar Bandekar,
son of Ratnakar Bandekar, aged 35 years, driver, resident of House No.2-A, Avem-Cotigao, Canacona, South-Goa.

2. Shailesh Ratnakar Bandekar,
son of Ratnakar Bandekar, aged 35 years, owner, resident of House No.99, Avem-Cotigao, Canacona, South-Goa.

3. TATA AIG General Insurance Company Limited, Peninsula Business Park, Tower-A, 15th Floor, G.K. Marg, Lower Parel, Mumbai- 400 013. …. Respondents.

Mr. Milton Marshal, Advocate *for the Appellants.*

None for the Respondents, *though served.*

CORAM : M. S. SONAK, J.

DATE : 18th November 2022

ORAL JUDGMENT :

1. Heard Mr. Marshal for the Appellants.

2. The Respondents though served, neither present nor represented.

3. The Appellants, by instituting this appeal, seek enhancement of compensation awarded to them on account of the death of Baba Tolu Velipo, who was the husband of Appellant No.1 and the father of Appellant No.2, in a vehicular accident.

4. Mr. Marshal has pointed out that the deceased left behind his widow and the son. Both filed the claim petition. In such circumstances, the Tribunal was not justified in deducting 50% of the deceased's notional income for the purpose of determining the dependency. He submits that in terms of the decision in ***National Insurance Company Limited vs. Pranay Sethi & ors.***[1] the deduction should have been 1/3rd. Accepting the above

1. (2017) 16 SCC 680

submission, the compensation towards dependency will have to be worked out to ₹1,99,920/-, instead of ₹1,50,000/-. Further, following *Pranay Sethi* (supra), compensation of ₹40,000/- is due towards consortium to the widow and further, ₹40,000/- to the son. A compensation of ₹30,000/- is due towards funeral expenses and loss of estate. The Tribunal has made an addition of 10% on these amounts because the award was made in the year 2021. However, the observations in *Pranay Sethi* (supra) about 10% increase every three years at least, *prima facie*, will have to be read in the context of the date of the accident. Thus construed, the total compensation payable will have to be determined at ₹3,09,920/-. Out of this, compensation of ₹2,69,920/- will have to be paid to the widow and ₹40,000/- to the son.

5. The Tribunal has awarded interest at the rate of 6% per annum. Considering that the accident was in 2017, interest at the rate of 7% would be appropriate. The same is awarded.

6. Accordingly, the appeal is partly allowed. The compensation amount is to be determined at ₹3,09,920/-, with interest at the rate of 7% per annum from the date of claim petition till effective payment. Costs granted by the Tribunal are maintained.

7. The Respondents to, jointly and severally, satisfy the above award. Since the original awarded amount is already paid, the Respondents, including in particular, Respondent No.3 to deposit the enhanced component in this Court within 8 (eight) weeks from receipt of a certified copy of this judgment and order. Deposit to be made with due intimation to the learned Counsel for the Appellants.

8. Upon deposit, the Appellants will be entitled to withdraw this amount by furnishing proper identification and bank details. Registry to ensure that the amounts are directly transferred to the bank accounts of the Appellants.

9. Appeal is disposed of in the above terms, without any orders for costs.

M. S. SONAK, J.

SANTOSH S MHAMAL
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