

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

**STAMP NUMBER MAIN NO.1680 OF 2020
WITH
MISC. CIVIL APPLICATION NO.245 OF 2021
AND
STAMP NUMBER (APPLN.) NO.1682 OF 2020**

Shriram General Insurance Co. Ltd.,
Office No.327, 34 Floor, A-Wing,
Jai Ganesh Vision, Akurdi Chowk
(Khandoba Mall) Old Pune-Mumbai
Highway, Akurdi,
Pune-Maharashtra-411 035.
Head Office Address-E08, EPIP, RIICO
Industrial Area, Sitapura, Jaipur,
Rajasthan-302022, through its Authorized
signatory, Mr.Swapnil Deshmukh

... Appellant

Versus

1. Mr. Manuel Raposo,
Age 66, retired, R/o H.No.224,
Near Railway Station,
Bazarwada, Collem-Goa.

2. Mrs.Helena Raposo,
Age 61, housewife,
R/o H.No.224, Near Railway Station,
Bazarwada, Collem-Goa.

3. Shri Ayyappa,
son of Bheemaraya,
Major in age, Driver,
Resident of CSF No.1,
Jawalagera, TQ, Sindhanur,
DT, Raichur-584 128.

4. Shri Subash,
S/o Venkatesh, Major in age,
Businessman, V.5 Block, Old Bazar,
Sindhanur, Dist-Raichur, Karnataka. Respondents

Mr Vaman Kurtikar, Advocate for the Appellant.
Mr Amey Salgaonkar, Advocate for the Respondent No.2.

CORAM: M. S. SONAK, J.

DATE : 18th NOVEMBER 2022

ORAL JUDGMENT :

1. Heard Mr Kurtikar for the Appellant and Mr Salgaonkar for respondent no.2. Respondent no.1, the father of the deceased Jesus Raposo, has expired. However, since the other dependant and moiety holder, his wife and the mother of deceased Jesus, is on record, the delay in filing the appeal is condoned, and the appeal is taken up for final disposal with the consent of the learned Counsel for the parties.

2. Mr Kurtikar clarified that the appeal would be pressed only on the issue of the quantum of compensation and the rate of interest.

3. He points out that the Tribunal has awarded compensation of ₹1,00,000/- each towards loss of love and affection and ₹25,000/- towards funeral expenses. He submits that in terms of

the law in *National Insurance Company Ltd. V/s. Pranay Sethi & Ors.*¹, the compensation towards the loss of consortium could have been ₹40,000/- towards each of the claimants. Further, only ₹15,000/- could have been awarded towards funeral expenses, and, to this amount, ₹15,000/- could be added towards loss of estate. He submits that interest at the rate of 9% per annum is also excessive considering that the accident occurred in 2013. Therefore, he proposes interest at the rate of 7% per annum.

4. Mr Salgaonkar submits that the award has been correctly made and warrants no interference.

5. In terms of *Pranay Sethi* (supra), the compensation towards the loss of consortium should indeed work out to ₹40,000/- towards each claimant. Further, an amount of ₹30,000/- is due towards funeral expenses and loss of estate. The interest at the rate of 9% per annum also appears excessive, and the appropriate rate would be 7% per annum. To this extent, the award warrants interference.

6. The impugned award is thus modified, and the compensation is reduced from ₹11,43,000/- to ₹10,28,000/-.

¹ (2017) 16 SCC 680

The interest rate is also reduced from 9% per annum to 7% per annum.

7. The Appellant has deposited the awarded amount in this Court. Accordingly, respondent no.2, the deceased's mother, is entitled to withdraw the amount now awarded with proportionate interest after furnishing the necessary identification and bank details. Similarly, the balance amount can be refunded to the Appellant - Insurance Company along with the proportionate interest that shall have accrued thereon. The Registry to facilitate the payment as early as possible.

8. The appeal is disposed of accordingly. Misc. Civil Applications do not survive, and the same are also disposed of.

M. S. SONAK, J.

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