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IN THE HIGH COURT OF BOMBAY AT GOA
FIRST APPEAL NOS.94 OF 2015 & 140 OF 2017
FIRST APPEAL NO.94 OF 2015

1. Mr. Jaganath Hiroji Rawool,
S/o. Hiroji Rawool, major in age,
married, business, resident of
H.No.584, Cortalim – Goa.

2. The New India Assurance Co.
Ltd., Velho Building, 3rd floor,
Panaji-Goa.

.... Appellants

Versus

Mr. C.J. Jogy,
s/o. late Mr. C.K. Joseph,
aged 57 years, married,
residing at H.No.324,
Ashirvad, Viswambhar Nagar,
near Pankaj Tiles,
Dhavli, Ponda-Goa.

.... Respondent

Mr. E. Afonso with Ms. C. Afonso, Advocate for the
Appellants.

Mr. G. Agni , Advocate for the Respondent.

AND
FIRST APPEAL NO.140 OF 2017

Mr. C.J. Jogy,
s/o. late Mr. C.K. Joseph,
aged 52 years, married, Occ. Nil,
residing at H.No.324,
Ashriwad, Vishwambhar Nagar,
near Pankaj Tiles,

Dhawali, Ponda-Goa.

And presently residing at
301, Liliun, Socorro Gardens,
Porvorim Goa.

.....Appellant

Versus

1. Mr. Jaganath Hiroji Rawool,
S/o. Hiroji Rawool, major in age,
married, business, residing at
H.No.584, Cortalim, Ilhas, Goa.

2. The New India Assurance Co. Ltd.,
Having officer at Vasco da Gama-Goa.

.... Respondents

Mr. G. Agni, Advocate for the Appellant.

Mr. E. Afonso with Ms. C. Afonso, Advocate for the Respondents.

CORAM : M. S. SONAK, J.

Reserved on : 3rd MARCH 2022

Pronounced on : 20th MAY 2022

JUDGMENT :

1. Heard learned Counsel for the parties.

2. These two appeals are directed against the judgment and award dated 29.04.2015 in Claim Petition No.46/2010, by which the Motor Accident Claims Tribunal (Tribunal) awarded compensation of ₹15,80,000/- to the Claimant Mr. C.J. Jogy for injuries suffered by him in a vehicular accident. The First Appeal No.94/2015 is instituted by the owner/driver and the Insurance

Company, and the First Appeal No.140/2017 is instituted by the Claimant. Hence, it is only appropriate for a common judgment and order to dispose of both these appeals.

3. Even after the conclusion of the arguments, efforts were made to see if these appeals could be settled amicably. The Counsel also made efforts in this direction. Unfortunately, however, no settlement could be arrived at. The vacations then intervened. Whatever the outcome of these appeals, I still feel that the parties should once again attempt a settlement on mutually beneficial terms.

4. Mr. E. Afonso, the learned Counsel for the appellants in First Appeal No.94/2015, submitted that the accident took place on 06.02.2001, but the claim petition was filed after an inordinate delay of over nine years, i.e., on 11.06.2010. He submitted that there was no explanation for this delay. The Tribunal has failed to appreciate that even though there may be no limitation period, the claim had to be filed within a reasonable time. He relied on *Purohit & Company V/s. Khatoonbee & Anr.*¹ to submit that the Tribunal on delay and laches should have dismissed the claim petition.

¹ (2017) 4 SCC 783

5. Without prejudice, Mr. Afonso submitted that Antonio D'Souza (AW3) was a got-up witness, and his testimony was wrongly relied upon by the Tribunal. He submitted that even otherwise, the evidence on record bears out that the accident was on account of rash and negligent driving by the Claimant. Further, he submitted that the findings on disability or income are also not supported by the evidence on record. Mr. Afonso relied on *National Insurance Co. Ltd. V/s. Mr. Neelesh Raghvendra Naik & Ors.*², *Laxman Vithoba Gaunkar V/s. Sudesh Gaunkar & Ors.*³ and *Pukh Raj Bumb V/s. Jagannath Archut Naik*⁴ in support of his contentions.

6. Mr. Afonso, based on the above contentions, submitted that First Appeal No.94/2015 may be allowed and First Appeal No.140/2017 may be dismissed.

7. Mr. Agni, learned Counsel for the Claimant, defended the impugned award but submitted that the compensation awarded is too less and additional compensation is due to the Claimant. He submitted that no period of limitation had been prescribed for instituting a claim petition. Therefore, the Tribunal was justified in relying on *The New India Assurance Company V/s. C.*

² First Appeal No.108/2013 decided on 19.01.2022

³ 2011 ACJ 1916 (Bom.)

⁴ 2013 STPL 17081 Bombay

*Padma and Anr.*⁵ and entertaining the claim petition. He submitted that sufficient cause was otherwise shown in the claim petition to explain why the claim petition was lodged after nine years. He refers to the pleadings in paragraph 23 of the claim petition in this regard.

8. Mr. Agni submitted that the Tribunal has failed to award just compensation in this matter. He submitted that the Tribunal did not consider the correct income, and compensation towards medical expenses was also unduly curtailed. He submitted that the Tribunal adopted a hyper-technical approach by insisting upon tax returns. He submitted that the compensation awarded for pecuniary and non-pecuniary damages was too inadequate.

9. Mr. Agni, based on the above contentions, submitted that First Appeal No.94/2015 may be dismissed and First Appeal No.140/2017 may be allowed and the compensation suitably enhanced.

10. The rival contentions now fall for my determination.

11. Based on the pleadings as well as contentions raised in these two appeals, the following points arise for determination:-

⁵ 1997 (1) CTC 761

(a) Was the Tribunal justified in entertaining claim petition no.46/2010 that was instituted after 9 years and 4 months from the accident?

(b) Whether the finding of the Tribunal that the accident took place on account of the rash and negligent driving by the driver of the tipper truck bearing registration no.GA-02-V-5901 is perverse or, in any case, not supported by legal evidence?

(c) Whether the compensation awarded by the Tribunal represents '*just compensation*'?

12. The accident, in this case, took place on 06.02.2001. Therefore, the claim petition was instituted on 11.06.2010, i.e., after nine years and four months.

13. Mr. Agni submitted that the explanation for the delay is pleaded in paragraph 23 of the claim petition. To appreciate such an explanation, the same is transcribed below for the convenience of reference.

"23. Any other information that may be necessary or helpful in the disposal of the claim.

On 06/02/2001 the Applicant/Injured was proceeding from Bethora Factory Ponda to Miramar Panaji residence. The Applicant injured was driving his Car bearing No.GA-01-E-9919. When the Applicant reached Near Muslim Wada Bhoma (Banastarim) at about 4.00 pm, an oncoming Tipper

Truck came from the opposite direction in rash and negligent manner driven by the respondent No.1 and gave head on collision. The Applicant/Injured who was driving the car was crushed inside the vehicle and suffered sever bleeding with multiple fractures of the limbs resulting into Permanent Disability.

The Applicant/injured after the accident was immediately rushed to Goa Medical College Bambolim, by the locals. The Applicant/injured who was unconscious for a day in Goa Medical College recovered partially on the Second day. The Applicant/Injured was shifted to Manipal Hospital for better and advanced medical facility.

The Applicant/injured was in the hospital for 48 days and few operations were performed on the applicant/injured. There were multiple fractures on the hand and legs of the applicant/injured besides other injuries. The right eye of the injured/applicant had received serious injury which has resulted into over 25% loss of sight.

The Applicant/injured was discharged after 48 days and the Applicant/Injured came to Goa for post operative Care.

The Applicant/injured was further admitted in Manipal Hospital for performing other operations. The Applicant injured was in the Hospital admitted further for 42 days.

The Applicant/injured was brought back to Goa for recovery of health and the applicant/injured was bedridden for 1 year.

The Applicant/injured during 1 year had visited Manipal Hospital for check up on 4 occasions. After 1 year the Applicant/injured was put on wheel chair and was partially bedridden for 2 years.

The Applicant/injured is unable to walk by himself except with support and medical aids. The Applicant/injured has suffered permanent disability."

14. In the written statements filed by the appellants, the averments in paragraphs 22 and 23 of the claim petition were denied.

15. In his examination-in-chief, the Claimant (CW1) simply reiterated what was pleaded in paragraph 23 of the claim petition. In his cross-examination, the Claimant admitted that the claim petition was filed only in 2010 when the accident took place in 2001. He stated that the delay was due to his prolonged hospitalization and inability to travel. He denied the suggestion that the accident took place due to his fault, and that is why he filed the claim petition after almost ten years by way of an afterthought.

16. The Tribunal, in this case, initially did not even bother to frame any issue on the entertainability of the claim petition due to delay and laches. However, an additional issue was framed on

this aspect at a later stage. The discussion on this issue is to be found in paragraphs 48,49 & 50 of the impugned award.

17. In paragraph 48 of the impugned award, the Tribunal has, in brief, recorded the rival contentions and then proceeded to quote from *Dhannalal V/s. D.P. Vijayvargiya & Ors.*⁶. After that, this additional issue has been answered in paragraphs 49 & 50, which are transcribed below for the convenience of reference:-

"49. In the case of New India Assurance Company Limited V/s. C. Padma & Anr. (supra), it has been held that a claim petition can be filed at any time. In the said judgment petition filed almost after six years after the date of the accident was entertained by the Tribunal.

50. For the reasons mentioned above additional issue no.1 stands answered as not proved."

18. In *Dhannalal* (supra) and *C. Padma* (supra), of which the correct citation is **2003 (7) SCC 713**, the main issue involved was whether a claim barred under the Motor Vehicles Act, 1939, could be revived because of the Motor Vehicles (Amendment) Act 1994, by which the limitation clause in Section 166(3) was deleted, the Hon'ble Supreme Court held that since the MV Act, in the context of provisions for award of compensation due to

⁶ 1996 (4) SCC 652

vehicular accidents was beneficial legislation, the benefit of subsequent amendment must be extended to cases where the accident took place before the amending Act entered into force. Therefore, strictly speaking, *Dhannalal* (supra) and *C. Padma* (supra) are not authorities for the proposition that the claim petition can be entertained even after a lapse of reasonable time and in the absence of any convincing cause or explanation for the delay.

19. The issue as to whether a claim petition instituted beyond reasonable time and without any convincing explanation for delay can be entertained or not was considered by the Hon'ble Supreme Court in *Purohit & Company* (supra). The decisions in *Dhannalal* (supra) and *C. Padma* (supra), both delivered by division benches of the Hon'ble Supreme Court, were cited and considered by the three Judges Bench in *Purohit & Company* (supra). The larger bench also considered the effect of the amendment that had deleted the provision of limitation for filing claim petitions both under the MV Act, 1939 and the MV Act, 1988. The larger bench also considered the contention that the MV Act was beneficial legislation and, therefore, the legislature, in its wisdom, had deleted the provisions of limitation to institute the claim petitions. Thus, *Purohit & Company* (supra) is an authority for the proposition of whether a claim petition filed

beyond reasonable time and without any proper explanation for the delay can at all be entertained by the Tribunal, even though there was no period of limitation prescribed to institute claim petition.

20. The larger bench of the Hon'ble Supreme Court drew an analogy from the provisions of the Consumer Protection Act, 1986 or the Industrial Disputes Act, 1947, in which there was no period of limitation was prescribed for claiming compensation or raising an industrial dispute, but the Hon'ble Supreme Court in *Corporation Bank V/s. Navin J. Shah*⁷ and *Haryana State Coop. Land Development Bank V/s. Neelam*⁸ held that redressal has to be sought within a reasonable period, even if the statute does not prescribe any limitation. In the precise context of claims under the MV Act, the larger bench held that similar reasoning would apply, and a claim petition instituted beyond reasonable time and without any proper explanation for the delay ought not to be entertained by the Tribunal.

21. The larger bench in *Purohit & Company* (supra) also considered and distinguished the decisions of the Division Bench

⁷ (2000) 2 SCC 628

⁸ (2005) 5 SCC 91

in *Dhannalla* (supra) and *C. Padma* (supra) and finally held the following in paragraphs 15,16 & 17 :-

"15. We are satisfied, that the submission advanced at the hands of the learned Counsel for the appellant merits acceptance. The judgments on which the High Court had relied, and on which the respondents have emphasized, in our considered view, are not an impediment, to the acceptance of the submission canvassed on behalf of the appellant. We say so, because in Dhannalal's case (supra) the question of inordinate delay in approaching the Motor Accident Claims Tribunal, was not considered. In the second judgment in C.Padma's case (supra), it was considered. And in the C.Padma's case, the first conclusion drawn in paragraph 12 was "... if otherwise the claim is found genuine...". We are of the considered view, that a claim raised before the Motor Accident Claims Tribunal, can be considered to be genuine, so long as it is a live and surviving claim. We are satisfied in accepting the declared position of Law, expressed in the judgments relied upon by the learned Counsel for the appellant. It is not as if, it can be open to all and sundry, to approach a Motor Accident Claims Tribunal, to raise a claim for compensation, at any juncture, after the accident had taken place. The individual concerned, must approach the Tribunal within a reasonable time.

16. The question of reasonability would naturally depend on the facts and circumstances of each case. We are however, satisfied, that a delay of 28 years, even without reference to any other fact, cannot be considered as a prima facie reasonable period, for

approaching the Motor Accident Claims Tribunal. The only justification indicated by the respondents, for initiating proceedings after a lapse of 28 years, emerges from paragraph 4, contained in the application for condonation of delay, filed by the claimants, before the Tribunal. Paragraph 4 aforementioned is extracted hereunder:

"4. That the Petitioners are poor person and they have no knowledge about the Law. Also the Respondent has not pay the single pie towards any compensation."

17. Having given our thoughtful consideration to the justification expressed at the behest of the respondents, for approaching the Tribunal, after a period of 28 years, we are of the view, that the explanation tendered, cannot be accepted. Undoubtedly, the claim (pertaining to an accident which had occurred on 02.02.1977), in the facts and circumstances of the instant case, was stale, and ought to have been treated as a dead claim, at the point of time, when the respondents approached the Tribunal by filing a claim petition, on 23.02.2005."

22. In the present case, indeed, the Tribunal did not have the benefit of the decision of the larger bench in *Purohit & Company* (supra) and, therefore, the Tribunal went by the decisions in *Dhannalal* (supra) and *C. Padma* (supra). However, it is not possible to accept Mr. Agni's contention that the approach of the Tribunal was consistent with the Law that prevailed on the

date of the impugned award and, therefore, the impugned award warrants no interference. Thus, the Law, as explained by the larger bench in *Purohit & Company* (supra), will have to be applied.

23. Given the Law in *Purohit & Company* (supra), the issue of whether the claim petition in the present case was instituted within a reasonable time and, if not, whether there was any sufficient explanation for the delay will have to be considered.

24. There is no dispute that the claim petition, in this case, was instituted almost nine years and four months after the date of the accident. This is prima facie, not a reasonable period. The only explanation, if at all, for this delay is to be found in paragraph 23 of the claim petition quoted above. The explanation substantially accounts for two years from the date of the accident. There is a clear statement that the Claimant had to use a wheelchair for one year and was partially bedridden for two years. However, there is no clear explanation for what prevented the Claimant from instituting the claim petition beyond two years. Mr. Agni, however, pointed out that there was a statement that the Claimant was unable to walk by himself except with the support and medical aids.

25. The last statement pointed out by Mr. Agni does not explain the delay of over seven years in instituting the claim petition. This is more so because the Claimant, in his evidence, has claimed that his business/industrial activities were carried out during all this period.

26. Mr. Agni, however, submitted that when the Claimant instituted the claim petition on 11.06.2010, there was no requirement to explain the delay elaborately, given the decisions in *Dhannalal* (supra) and *C. Padma* (supra). Therefore, without prejudice, he submitted that the Claimant should not be faulted for not explaining the delay elaborately.

27. Without going into the correctness of Mr. Agni's submission, in the peculiar facts of this case, an opportunity can be granted to the Claimant to explain the delay of over 7 to 9 years in instituting the claim petition. Although the declaration of the Law by the larger bench in *Purohit & Company* (supra) means and implies that this was always the legal position, the fact remains that both the Claimant as well as the Tribunal did not have the benefit of the decision in *Purohit & Company* (supra) at the time of institution and disposal of claim petition in the years 2010 and 2015 respectively. Therefore, considering this aspect

and the peculiar facts of the present case, an additional opportunity deserves to be granted to the Claimant.

28. Usually, this Court is reluctant to remand matters or refrain from deciding all issues or points of determination that arise before it. However, in the present case, remand is inevitable in the interest of justice if an additional opportunity has to be granted to the Claimant. Such a remand will not only enable the Claimant to amend the pleadings and lead fresh evidence on the aspect of delay, but further, even the appellants in First Appeal No.94/2015 will get an opportunity to contest the cause shown or further lead their evidence to demonstrate if any prejudice was caused due to the delay. In *Purohit & Company* (supra), the larger bench of the Hon'ble Supreme Court has considered the contentions why no stale claims ought to be considered by the Tribunal. One of the contentions was that by reason of lapse of time, either witnesses would not be available or accessible, or the witnesses might not remember the events they were expected to depose to.

29. In the present case, the Claimant examined Antonio D'Souza (AW3) as an eyewitness to the accident. This witness claimed that he was a social worker and had actually witnessed the accident on 06.02.2001. He also claimed that on 07.02.2001, when he was called to the police station in connection with a

quarrel between two boys, he had informed the police inspector Mohan Naik that he was an eyewitness to the accident at Muslimwada, Bhoma, that took place on the previous day, i.e., on 06.02.2001. He deposed that the police inspector told him that he would be called in case the police required him. However, for about nine years, or even after that, the police did not reach this witness even though the driver cum owner of the truck was prosecuted.

30. AW3 then deposed that after about ten years, one Praksh Gaunekar, a businessman from Ponda, met him and inquired whether he would depose in the claim petition instituted by his friend that is the claim herein. Accordingly, on 31.07.2011, AW3 was taken to the office of the Claimant's advocate, and there, his affidavit by way of examination-in-chief was prepared and signed.

31. Mr. Afonso was at pains to point out that the Claimant never examined this Prakash Gaunekar. He pointed out that this sudden surfacing of AW3, as an eyewitness, after almost ten years and totally by way of chance, was almost unbelievable. He pointed out that there is no explanation why the police/State never examined AW3 in a criminal prosecution that ended in the acquittal of the owner/driver of the truck. He pointed out that the situation is even more complicated due to the inordinate

unexplained delay in instituting the claim petition. He pointed out that apart from the self-serving statement of the Claimant, there was no other witness to the accident other than the alleged eyewitness AW3. He submitted that the suspicious testimony of AW3 is compounded by the inordinate delay in instituting the claim petition.

32. In the peculiar facts of the present case, the issue of inordinate delay and its impact on the appreciation of the evidence, at least on the aspect of rashness and negligence, will have to be decided together. Any observation at this stage might foreclose the Tribunal in appreciating both these aspects compositely. To a certain extent, the acceptability of A3's evidence will depend upon the Claimant's explanation of the delay of over seven years in instituting the claim petition. Therefore, in the present case's peculiar facts, it will be appropriate if the matter is remanded to the Tribunal to consider the first and second points for determination.

33. On the aspect of the quantum of compensation, the Tribunal has erred in adopting the multiplier of 15 when the correct multiplier to be adopted in this case would have been 14. The Claimant was 45 years at the time of the accident and in terms of the Law laid down in *Sarla Verma V/s. Delhi*

*Transport Corporation & Anr.*⁹ In *National Insurance Company V/s. Pranay Sethi*¹⁰, the correct multiplier would be 14 and not 15.

34. On the income aspect, the Claimant had claimed that his gross profit was ₹2,50,000/- per month, and the net profit was ₹50,000/- per month before the accident. He also claimed that his gross profit came down to ₹79,000/- per month and net profit to ₹16,000/- per month after the accident. If this is to be believed, the Claimant must have filed or at least was required to file his income tax returns. The Claimant had claimed that he was a '*promising industrialist*' who had made a name for himself in the rubber business. The Claimant has also produced a tripartite lease deed in which he had acquired shed no.D-3-3 admeasuring 165 sq. mtrs at Bethora industrial estate. However, the Claimant produced no tax returns on record. There was no explanation offered for this omission.

35. The Claimant examined AW5, a State Bank of India employee, in the context of Exhibits 67 & 68, which are nothing but some bank statements or loan statements. The Tribunal has held that even these documents do not prove that the Claimant

9 (2009) 6 SCC 121

10 (2017) 16 SCC 680

availed of any loan or cash-credit facility. The Claimant also examined Sanjay Singbal (AW6), a chartered accountant, who produced income statements ending on 31.03.1998, 31.03.1999, and 31.03.2000. He also produced audit reports for the years ending March 1998 to 2005 at Exhibit 74 colly.

36. The Tribunal had correctly held that the production of the above documents did not constitute any proof of the actual income of the Claimant before or after the accident. Even AW6 could not answer why no income tax returns were filed after; indeed, the income position reflected in the statements belatedly produced was proper. The documents at Exhibit 74 colly only bear the signature of the chartered accountant. Still, there is no endorsement about such documents being filed with or accepted by the income tax authorities. The Tribunal had quite correctly doubted these documents as documents created later to suit the Claimant's case. The Tribunal has also held that the Claimant failed to prove any loss of income, and further, the Claimant cannot take advantage of his delayed filing of the claim petition.

37. The Tribunal has considered both the pecuniary and non-pecuniary damages. It has made an appropriate award under the various heads as applicable on the adoption of the correct multiplier. Accordingly, the Tribunal has awarded the claimant

₹12,00,000/- towards loss of income. However, if the correct multiplier of 14 were to be applied, the compensation would come to ₹11,20,000/-. Therefore, there is an excess payment of ₹80,000/-.

38. However, in the peculiar facts of the present case, the compensation amount as determined by the Tribunal need not be reduced because some proportionate increase to the extent of the excess can always be awarded towards pain and suffering for which the Tribunal has awarded only ₹25,000/- to the Claimant. Thus, if the award towards pain and suffering is increased from ₹25,000/- to ₹1,05,000/-, the Tribunal's overall compensation can be sustained as representing the just compensation.

39. Thus, First Appeal No.140/2017 instituted by the Claimant for enhancement of compensation is liable to be dismissed. However, First Appeal No.94/2015, instituted by the owner/driver and the Insurance Company, will have to be partly allowed. Accordingly, the matter will have to be remanded to the Tribunal to determine whether the claim petition ought to have been entertained because the same was filed nine years and four months after the date of the accident and, if so, to determine further whether the accident, in this case, was caused due to the rash and negligent driving of the owner/driver or the Claimant.

40. The impugned award is accordingly set aside. The claim petition no.46/2010 is restored to the file of the Tribunal. The Claimant is granted the liberty to amend the claim petition only to elaborate and explain the causes for delay in instituting the claim petition almost nine years and four months after the date of the accident. Such amendment can be carried out within one month from today. Respondents are also granted liberty to either amend their written statements or file additional replies/affidavits to the amended claim petition within one month from the service of the amended petition.

41. If the parties wish to lead any evidence on the aspect of delay or rashness and negligence, the Tribunal will grant them the opportunity to do so. On remand, the Tribunal will decide the issue as to whether the claim petition ought to be entertained or not, having regard to the fact that such claim petition was instituted almost nine years and four months after the date of the accident. The Tribunal, without prejudice to its finding on the above issue, must also decide on the issue of rashness and negligence.

42. The determination of the quantum of compensation is sustained, and therefore the Tribunal should not once again determine this issue. If the Tribunal holds the issues of delay and

negligence in the Claimant's favor, the bank guarantee, referred hereafter, can be discharged. But if the Tribunal holds against the Claimant, the Insurance Company must be allowed to encash the bank guarantee. In such a case, the Tribunal will also have to decide on the interest component.

43. The record indicates that the Insurance Company had deposited the awarded amount in this Court. The Claimant has also withdrawn the same by furnishing an undertaking before the Registrar that he would indemnify the owner/Insurance Company in case their appeal succeeds. Mr. Agni submitted that the necessary undertaking had been filed and the amount had been withdrawn.

44. Now that the impugned judgment and award are set aside, and the appeal instituted by the owner/Insurance Company is at least partly allowed, it is only appropriate that the Claimant honors his undertaking. Therefore, in the usual course, the Claimant ought to be directed to refund the amount withdrawn by him to the Insurance Company. However, in the peculiar facts of the present case, the interest of justice will be served if the Claimant is directed to furnish a bank guarantee from a nationalized bank favoring the Insurance Company to secure the amount already withdrawn by the Claimant. Such a bank

guarantee will have to be furnished by the Claimant within one month from today, failing which the owner/Insurance Company will be entitled to take out appropriate proceedings for breach of undertaking by the Claimant and/or for the recovery of the withdrawn amount.

45. The Tribunal, upon remand, should also ensure compliance so that the withdrawn amount is either secured by a bank guarantee or otherwise recovered from the Claimant in terms of the Law. The aspect of interest on this withdrawn amount shall, however, abide by the final orders of the Tribunal on remand.

46. The parties to now appear before the Tribunal on 20.06.2022 at 10.00 a.m. and file an authenticated copy of this judgment and order. The Tribunal should expeditiously dispose of claim petition no.46/2010. All the parties should co-operate with the Tribunal for the expeditious disposal of the claim petition no.46/2010.

47. The Registry to ensure that records are urgently sent to the Tribunal so that the parties can amend pleadings or file additional pleadings, and the Tribunal can attend to this matter with dispatch. The Tribunal can also persuade the parties to explore the possibility of settlement and, if they agree, refer them to

mediation. However, the Tribunal must also ensure that the parties do not use mediation to simply delay the proceedings or delay securing the withdrawn amount by a bank guarantee.

48. Both the appeals are disposed of in the terms above. Accordingly, there shall be no orders for costs.

M. S. SONAK, J.

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