

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.122 of 2015

Smt. Sanjivani alias Kalpana Kishore
Kankonkar, wife of Shri Kishore D.
Kankonkar, Married, aged 52 years,
service, R/o. H.No.162/1, ward no.5,
Shrithal, Gaodongrem, Canacona Goa. ... Appellant

Versus

1. Shri Tukaram Kust Velip
son of Shri Kust Velip,
Age 28 years, unmarried,
R/o. H.No.192, Bhupar,
Gaodongrem, Canacona,
Goa (Driver).

2. Mrs. Saluja Gaonkar,
married, major in age,
R/o. H.No.1392,
Tanshi, Loliem,
Canacona Goa.

3. Bajaj Allianz Insurance
Company Ltd., 112 and 113,
first floor, Guru Sai Plaza,
Near Adarsh School,
Pajifond Margao, Goa (Insurer). ... Respondents

Ms. P. Tari, Advocate for the Appellant.

**Mr. Amey Kakodkar with Ms. Amanda Godinho, Advocate for
Respondent No.3.**

CORAM : M. S. SONAK, J.

DATE : 15th JULY 2022

ORAL JUDGMENT :

1. Heard Ms. Tari for the Appellant and Mr. Amey Kakodkar with Ms. Amanda Godinho for respondent no.3 – Insurance Company.

2. The Appellant – claimant appeals the impugned judgment and award dated 31.08.2015 in Claim Petition No.158/2012/II, by which the Tribunal has awarded the appellant compensation of ₹48,800/- for the injuries sustained by her in a vehicular accident.

3. The evidence on record shows that the Appellant sustained some injuries which did not result in any permanent or temporary disablement. However, there is evidence that the Appellant had to travel on several occasions from Gaodongrem, Canacona, where she resides, to the Goa Medical College for treatment purposes.

4. The evidence on record also establishes that the Appellant had to take treatment for almost two months. The injuries also caused her pain and suffering. There is evidence about engaging an attendant. There is evidence about travel.

5. Though the Appellant may have exaggerated some claims like the claim for loss of income of her husband and her two sons, who had to stay home to attend to her, overall, the Appellant's evidence deserves credence.

6. Ms. Tari correctly pointed out that the Appellant resides at the remote place of Gaodongrem in Canacona Taluka. She pointed out that the Appellant may not have kept all the medical bills, but considering the treatment period, her claim was within the bounds of reasonability. She correctly explained that the distance between Gaodongrem and Goa Medical College and return is almost 180 to 190 kilometers. Based on all this, Ms. Tari has established that the award made by the Tribunal is rather inadequate and, therefore, does not constitute just compensation.

7. The Tribunal has awarded only ₹1,281.35 towards medical expenses. Considering the evidence on record, this amount must be enhanced to ₹10,000/-.

8. The Tribunal has awarded only ₹2,000/- towards traveling expenses. However, considering the distance between Gaodongrem and Goa Medical College, this amount must be enhanced to ₹12,000/-.

9. For attendance charges, the Tribunal has awarded ₹2,000/-, but to my mind, a minimum award of ₹10,000/- is due to the Appellant.

10. The Tribunal has correctly awarded an amount of ₹41,548/- towards loss of income. There is no claim for such enhancement of this amount.

11. Towards pain and suffering, the Tribunal has awarded only ₹2,000/-. This, to my mind, is inadequate. Furthermore, the record indicates that the Appellant did suffer injuries that required her admission to the hospital for nine days. Even after that, she had to visit the hospital almost 20 times. Considering all this, compensation of ₹30,000/- is due towards pain and suffering.

12. Thus, the total compensation in this case to qualify just compensation would come to ₹1,03,598/-.

13. The appeal is accordingly partly allowed, and the compensation amount is enhanced from ₹48,800/- to ₹1,03,598/-. The interest awarded by the Tribunal is maintained.

14. The respondents, including in particular respondent no.3, to deposit the compensation amount within six weeks from today with intimation to the learned Counsel for the Appellant. The Appellant can withdraw this amount after providing identification papers and bank details. The Registry to ensure that the amount is transferred directly into the bank account of the Appellant. There shall be no orders for costs.

M. S. SONAK, J.

NITI K
HALDANKAR

Digitally signed by NITI K
HALDANKAR
Date: 2022.07.20 14:34:24 +05'30'