Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 23 OF 2017

1. (Shri, Siddhu Babu Varak,)
Since deceased and

2. (Smt. Savitri S. Varak) Since deceased;

1a. Ms. Shakuntala Sidhu Varak, Daughter of late Sidhu Varak, Aged 45 years, spinster, R/O H.NO.462, Khutwal, Alorna, Pernem, Goa.

1b. Mrs. Manda Ramu Vadar,
Wife of Shri. Ramu Vadar, Daughter of Late Shri. Siddhu Babu Varak, Aged 30 years, married, R/O H.No.104, Chandel, Pernem, Goa.

1c. Mr. Ramu Shivaji Vadar,
Son of Shri. Shivaji Vadar, Aged 43 years, married, R/O H.No.104. Chandel, Pernem, Goa

…. Appellants.

Versus.

1. Shri. Navnath K. Bombale.
Son of Kaluram Chawale,
Major in age, R/o B-19-18,
Worli Police Camp, Worli,
Mumbai-18.

2. Shri. Sandeep N. Kad,

Major in age, r/o Rajguru Nagar,
A/P Waki (Budruk), Tal. Khed,
Dist. Pune, Maharashtra, 401505.

3. The New India Assurance Co Ltd.
Having its office at Rajguru Nagar
(157807 Karnawat Building, Wada
Road, Tal. Khed, Dist. Pune. …. Respondents.

Mr. Salil Saudagar, Advocate *for the Appellants.*

Ms. Christabel Afonso, Advocate *for Respondent No.3.*

CORAM : M. S. SONAK, J.

DATE : 11th August 2022

ORAL JUDGMENT : -

1. Heard Mr. Salil Saudagar for the Appellants and Ms. Christabel Afonso for Respondent No.3-Insurance Company.

2. The challenge in this appeal is to the judgment and award dated 23rd May 2012 made by the Motor Accident Claims Tribunal, Mapusa (Tribunal) in Claim Petition No. 5/2011.

3. Mr. Saudagar submits that the Tribunal has failed to make an addition towards future prospects and award consortium in respect of each of the dependants. He hands in a chart in terms of which the just compensation would work out to ₹ 14,33,000/- and not ₹9,90,000/-, as awarded by the Tribunal.

4. Ms. Afonso submits that the Tribunal has awarded excess compensation towards loss of estate and funeral expenses. She submits that otherwise, there is no error in the computation of the compensation by the Tribunal.

5. The records show that the insurance company has accepted the impugned award and even paid the compensation in terms of the same. Thus, there can be no serious dispute about the deceased person's annual income and the age.

6. The Tribunal has correctly determined the deceased's annual income at ₹1,26,000/-. However, the Tribunal has failed to make an addition of 40% towards future prospects consistent with the law in ***National Insurance Company Limited vs. Pranay Sethi & ors.***[1.] With this addition, the deceased's annual income will have to be taken at ₹1,76,400/-. There is no dispute that deduction of 50% is called for and thus, the annual dependency would come to ₹88,200/-.

7. In terms of *Pranay Sethi (supra)* ***and Sarla Verma (Smt.) and ors. vs. Delhi Transport Corporation and anr.***[2] the correct multiplier in this case is 15, considering the age of the deceased at the time of the accident. The compensation towards dependency

1. (2017) 16 SCC 680
2. (2009) 6 SCC 121

would, therefore, come to ₹13,23,000/-.

8. To the above amount, ₹15,000/- will have to be added towards loss of estate and another ₹15,000/- towards funeral expenses. The Tribunal had awarded compensation of ₹20,000/- and ₹25,000/- respectively under these heads. These amounts will have to be proportionately scaled down.

9. Further, towards consortium, the original appellants would be entitled to ₹40,000/- each. Thus, the compensation of ₹80,000/- is due towards consortium.

10. Based on the above, just compensation in this case will have to be computed at ₹14,33,000/- in place of ₹9,90,000/-. There is no case made out for varying the interest awarded by the Tribunal.

11. Thus, this appeal is allowed and the compensation amount is to be determined at ₹ 14,33,000/- in place of ₹9,90,000/-.

12. The Respondents, including in particular, Respondent No.3-Insurance Company is now directed to deposit the enhanced compensation of ₹4,43,000/-, together with interest at the rate of 8% per annum from the date of presentation of the application for compensation, in this Court within six weeks from today. The Insurance Company must give intimation to the learned Counsel for the Appellants before such deposit is made.

13. The original claimants are the parents of Appellant No.1(a)-daughter and appellants No.1(b) and 1(c)-daughter/son-in-law.

14. Mr. Saudagar states that the Appellants left behind no other legal representative and the statement to this effect on oath has been made in the application for bringing on record the said legal representatives. In any case, the Appellants will have to indemnify the Insurance Company in case any further legal representatives turn up to claim compensation. If any legal representative turns up, then, it will be for the Appellants to share this compensation with them.

15. Accordingly, the Appellant No.1(a) will be entitled to 50% of the compensation amount and Appellant No.1(b) and 1(c) will be entitled to 25% each.

16. After the compensation amount is deposited, the Appellants to furnish identity documents and bank details so that the Registry can transfer the compensation amount in the above proportion directly in their bank accounts.

17. The appeal is disposed of in the above terms. There shall be no order for costs.

M. S. SONAK, J.