

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.21 OF 2023

Mr Jose Varella
Son of late Mr Antonio Gomes
Fernandes, aged 65 years, widower,
unemployed, resident of House No.30,
Fondvem, Ribandar, Tiswadi-Goa.Appellant

Versus

1. Mr Jude Anthony Menezes
son of Mr Anthony Menezes,
major in age, bachelor,
resident of House No.56,
Gomeswado, Majorda,
Salcete-Goa.

2. Mr Surendra Chopal.
Son of Mr Mangal Chopal,
aged 21 years, resident of
House No.471/5, Curilowado,
Majorda, Salcete-Goa.

3. Pandey and Company S.N.
House No.62, Dignem-Verna,
South-Goa.

4. National Insurance Company Ltd.,
Margao Branch, office no.101 to 107, A
wing, 1st floor, Reliance Trends Centre,
Next to Grace Church, V.V. Road,
Margao-Goa 403601.Respondents

Mr Milton Marshal, Advocate for the Appellant.

Mr Amey Kakodkar, Advocate for Respondent No.4.

CORAM: M. S. SONAK, J.

DATE : 14th JULY 2023

ORAL JUDGMENT :

1. Heard Mr Milton Marshal for the appellant and Mr Amey Kakodkar for respondent no.4 (Insurance Company).
2. The appellant challenges the judgment and award dated 06.02.2023 made by the Motor Accident Claims Tribunal, North Goa, at Panaji, by which the Tribunal dismissed the appellant's Claim Petition no.27/2020. The appellant had applied to Section 164 of the MV Act, 2019, claiming compensation of ₹3,00,000/- (Rupees Three Lakhs only) for his injuries in a vehicular accident.
3. Section 164 of the MV Act entered force on 01.04.2022. The accident in this case occurred on 19.01.2019, and the Claim Petition was filed soon after that. Therefore, the Tribunal dismissed the Claim Petition by holding that the appellant had not sustained any permanent disablement and Section 164 or 163, as it then stood, provided for no compensation for simple injuries.
4. In my opinion, the Tribunal erred because, in terms of the 2018 amendment, compensation of ₹25,000/- (Rupees Twenty Five Thousand only) was provided for simple injuries. Therefore, the

Tribunal should have made an award in the amount of ₹25,000/- (Rupees Twenty Five Thousand only).

5. Mr Marshal, however, submitted that the appellant suffered grievous injury. No doctor was examined. The Hurt Certificate does not speak of permanent disablement though it speaks of some injury that may be more than a simple injury. Further, this Hurt Certificate also speaks about the appellant being under the influence of alcohol.

6. Considering the material on record, a case for award for compensation based on the premise that a simple injury but not permanent disablement was made out. The Tribunal should have awarded ₹25,000/- (Rupees Twenty Five Thousand only) by compensation.

7. Accordingly, the impugned award is interfered with. The respondents are jointly and severally directed to pay the appellant compensation of ₹25,000/- (Rupees Twenty Five Thousand only) with interest at the rate of 6% per annum from the date of the petition till effective payment.

8. Respondent no.4 – Insurance Company must deposit the above amount in this Court within four weeks from today with intimation to Mr Marshal. The appellant can withdraw this amount by furnishing identity and bank details. Registry to ensure that the

amount is directly transferred to the appellant's account. The appeal is allowed to the above extent with costs indicated in the award.

M. S. SONAK, J.

NITI K
HALDANKAR

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