

* IN THE HIGH COURT OF DELHI AT NEW DELHI

CM(M) No.984/2010

Date of Decision: September 21, 2010

IFFCO TOKIO GENERAL INSURANCE CO LTD Petitioner
through Ms. Shantha Devi Raman, Advocate

versus

SUSHMA & ORS Respondents
through None

CORAM:
HON'BLE MISS JUSTICE REKHA SHARMA

1. Whether the reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether the judgment should be reported in the 'Digest'?

REKHA SHARMA, J. (ORAL)

This petition has been preferred by the petitioner, namely, Iffco Tokio General Insurance Company Limited against the order passed by the Motor Accident Claims Tribunal dated April 23, 2010 dismissing the application filed by it to implead the owner, driver and insurer of TSR bearing registration No.DL-1R-J-0398 which was involved in an accident with a Honda City Car bearing registration No.DL-2F-GM-0999.

It is stated by learned counsel for the petitioner that it was alleged in the application for impleadment that the accident was caused not only on account of negligence of the driver of the Honda City Car but also on account of negligence of the driver of the said TSR and, therefore, his impleadment along with the owner and the insurer was necessary.

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The learned Claims Tribunal has dismissed the application for impleadment on the ground that the FIR was lodged by the driver of the TSR and therein it was clearly indicated that the accident was caused due to the rash and negligent driving of the driver of the Honda City Car. Having said that, the Claims Tribunal observed that if evidence during enquiry would show negligence on the part of TSR, an appropriate view on contributory negligence and extent of liability can be taken.

Upon hearing learned counsel for the petitioner, I am of the view that the order dated April 23, 2010 is liable to be set-aside. The Claims Tribunal has erred in relying upon the allegations in the FIR lodged by TSR driver and on the basis of the same holding that the driver, owner and insurer of the TSR are not necessary parties. The stage to give such a finding will arise only after the evidence of the parties has been recorded, and as admittedly two vehicles were involved in the accident, the driver, owner and the insurer of the other vehicle do become necessary parties to ascertain who between the two was negligent or both were negligent.

In view of the above, I set-aside the order dated April 23, 2010 and direct the Claims Tribunal to implead the driver, owner and the insurer of TSR bearing registration No.DL-1R-J-0398 as respondents in the claim petition.

The petition is disposed of.

A copy of this order be given *Dasti* to the learned counsel for the petitioner under the signatures of the Court Master.


REKHA SHARMA, J

SEPTEMBER 21, 2010
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