

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2015

C O R A M

THE HONOURABLE Ms.JUSTICE K.B.K.VASUKI

C.M.A.No.1056 of 2007 and
M.P.No.2 of 2007

The New India Assurance Co.Ltd.,
rep. by its Divisional Manager,
C.S.I. Buildings, Officers Line,
Vellore.Appellant/R2

Vs.

1. Eswari
2. R.Ravikumar Respondents/Claimant &R1

PRAYER:

Civil Miscellaneous Appeal filed against the judgment and decree, dated 22.06.2006, passed in M.A.C.T.O.P.No.410 of 2004, on the file of the Motor Accident Claims Tribunal (Additional District Cum Sessions Judge) Fast Track Court, No.II, Ranipet.

For Appellant : Mr.M.Krishnamoorthy

For Respondent -1 ; Mr.C.Prabakaran

JUDGEMENT

The second respondent/Insurer before the Tribunal is the appellant herein.

2. In this Appeal, the second respondent/Insurer questioned two clauses in the award. i) First clause, in under which, the insurer is directed to pay the compensation amount to the injured on behalf of the insured, and to recover the same by initiating separate proceedings against the insured for violation of policy conditions and ii) the second clause is relating to the award of 3% penal interest on the failure of the compensation amount being deposited within three months' time from the date of the award.

3. It is pertinent to note that, in this case, the injured was awarded total compensation of Rs.25,000/-.

4. Regarding the first clause, as there was violation of policy conditions, the insurer was absolved from the liability to pay the compensation, however, he was directed to pay the compensation on behalf of the insured, and was directed to initiate separate

proceedings against the insured for recovery of the amount. To that extent, the appellant/Insurer is aggrieved and the same requires modification with liberty given to the insurer to recover the amount from the insured by way of execution of proceedings in this M.C.O.P.No.410 of 2004.

5. Regarding the award of penal interest at 3%, for non deposit of the compensation amount within three months' time, this Court is of the view that the same being onerous in nature, is liable to be set aside and stands set aside.

6. In the result, the impugned award is modified and compensation of Rs.25,000/- is payable with interest at the rate of 9% p.a. and the second respondent/Insurer is directed to pay entire amount on behalf of the first respondent/insured with liberty given to the Insurer to recover the same by way of execution of proceedings in this M.C.O.P., and time for payment of balance sum is four weeks from the date of receipt of a copy of this judgment. On deposit, the claimant is permitted to withdraw the amount. The Civil Miscellaneous Appeal is, accordingly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar (CSIV)

dt:08/10/2015

True Copy

Sub-Assistant Registrar

sd

To

1. The Motor Accident Claims Tribunal,
Additional District Cum Sessions Judge,
Fast Track Court, No.II, Ranipet.

copy to:

The Section Officer,
V.R.Section High Court, Madras

+1 cc to Mr.M.Krishnamoorthy Advocte sr.40763

+1 cc to Mr.C.Prabakaran Advocate sr.40758

C.M.A.No.1056 of 2007

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