THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

C.M.A. No.955 OF 2004

JUDGMENT:

The second respondent/insurance company filed this appeal assailing the award dated 26.09.1997 passed in M.V.O.P. No.349 of 1994 by the learned Chairman, Motor Accident Claims Tribunal-cum-V Additional District Judge, Tirupathi.

2. I have heard the submissions of the learned counsel for the appellant/insurance company. None appears for the claimants. I have carefully perused the material record.

3. The facts necessary for consideration, in brief, are as follows: 'One K.Subramanyam Reddy had died in a motor vehicle accident leaving behind him the claimants, who are his wife and other legal representatives. The claimants having filed an application under section 166(1)(c) of the Motor Vehicles Act had claimed a compensation of Rs.2,00,000/. The owner of the vehicle had remained *ex parte* before the Tribunal. The appellant i.e., the second respondent/insurance company had resisted the claim on various grounds. Before the Tribunal, PWs 1 and 2 were examined and exhibits A1 and A2 were marked. No oral and documentary evidence was adduced on the side of the appellant/insurance company. On merits, the Tribunal had awarded a compensation of Rs.1,83,000/- with interest @ 12% per annum simple payable by the respondents jointly and severally. The claimants had earlier received a sum of Rs.25,000/- under 'No fault liability'. However, while passing the instant award, which is now under challenge in this appeal, the Tribunal did not give a direction or make an observation that the amount already received under Section 140 of the Act shall be given credit.'

4. Now the two contentions that are advanced by the learned counsel for the insurance company in this appeal before this Court are as under: Firstly: Admittedly the claimants had received Rs.25,000/- as compensation towards the claim under the principle of 'no fault liability'; however, the Tribunal had failed to give a suitable direction in the award to give credit to the said amount while passing the impugned award. Secondly: The interest on the compensation amount was awarded @ 12% per annum simple and that the interest so awarded is on the higher side in view of the fact that at present the Tribunals and the Courts are awarding interest @ 7.5% per annum simple and that therefore, the interest is to be reduced from 12% per annum simple to 7.5% per annum simple on the compensation amount payable under the award. He had finally urged that the appeal may be allowed directing that the compensation already received under the principle of no fault liability be given credit and be reduced from the amount due under the award of the Tribunal and the interest on the compensation amount payable be reduced from 12% to 7.5% per annum simple.

5. I have given earnest consideration to the facts and the submissions. The undisputed fact is that the claimants had received Rs.25,000/- towards compensation under the principle of 'no fault liability'. The said fact is recorded in the award of the Tribunal, which is now impugned. The said compensation is stated to have been awarded under Section 140 of the Act for 'no fault liability'. The learned counsel for the insurance company, therefore, had contended that the said amount of Rs.25,000/- already awarded and received by the claimants in accord with the principle of 'no fault liability' has to be deducted from the compensation determined under Section 168 of the Act as the compensation awarded under Section 140 for 'no fault liability' is not in addition to the compensation determined under Section 168, i.e., on the principle of fault liability. Therefore, from the facts and submissions now made, it appears that the said amount is to be given credit as per the settled law. Accordingly, the appellant/insurance company is entitled to the relief on this score. Hence, this court holds that the said amount of Rs.25,000/- already awarded under

Section 140 of the Act for ‘no fault liability’ and admittedly received by the claimants shall be given credit while paying or depositing the awarded amount as per the award of the Tribunal.

6. Coming next to the contention on the aspect of interest, what is to be noted is that the Tribunal had awarded Rs.1,63,200/- under the head of ‘loss of dependency’ besides Rs.9,800/- towards ‘loss of consortium’ and did not award any other compensation amounts under the heads ‘transport charges’, ‘loss of estate’ and ‘funeral expenses’ etcetera. Adequate compensation towards ‘loss of consortium’ was also not awarded. Further, the subject accident had occurred in the year 1993 and the claim petition is of the year 1994 and the award was passed in the year 1997. At that relevant time the Tribunals and the Courts were awarding interest @ 12% per annum simple. Having regard to the facts and circumstances of the case, this Court is not inclined to accept the submission of the learned counsel for the insurance company/appellant that the interest awarded at the rate of 12% per annum simple on the compensation amount is liable to be reduced.

7. In the result, the appeal is allowed in part holding that Rs.25,000/- (Rupees Twenty Five thousand only) awarded to the claimants under Section 140 for ‘no fault liability’, which was already received from the insurance company by the claimants shall be given credit while calculating and arriving at the amount due and payable by the insurance company as per the impugned award of the Tribunal in M.V.O.P. No.349 of 1994. However, the award insofar as granting interest @ 12% per annum simple on the compensation amount needs no interference. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this appeal shall stand closed.

M.SEETHARAMA MURTI, J

Date: 06.03.2015
MVA