HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 2393 of 2016

ORDER:

1) The present revision is filed under Section 115 of C.P.C. by the New India Assurance Company Limited, questioning the order dated 08.03.2016 passed in O.E.P.No.17 of 2014 in M.V.O.P.No.47 of 2000, wherein it was held that the second respondent therein, who is the petitioner herein, shall deposit a sum of Rs.90,906/- and interest due from 24.02.2015 on the remaining balance in accordance with law.

2) The brief facts are as under:

3) The respondents herein filed M.V.O.P.No.47 of 2000 on account of death of the deceased Seelam Bhadraiah, who died in a road accident. The Accident Claims Tribunal allowed the said petition by awarding compensation of Rs.1,55,250/- with interest @ 9% per annum from the date of petition till the date of realization. Not being satisfied with the quantum of compensation, the respondents/claimants preferred M.A.C.M.A. No.443 of 2005 before this Court. By its judgment dated 18.11.2013 this Court enhanced the compensation from Rs.1,55,250/- to Rs.4,43,000/- but however the rate of interest was reduced from 9% to 7.5%

The respondents/claimants filed O.E.P.No.17 of 2014 for execution of the said decree.

4) Two calculation sheets came to be filed before the trial Court, one by the Insurance Company and another by the respondents/claimants. The grievance of the respondents/ claimants is that they are still entitled to an amount of Rs.2,16,232/- whereas the claim of the insurance company-petitioner is that entire amount of Rs.5,14,281/- which was due as on the said date was already paid. After considering the rival calculations the trial Court found that the second respondent therein ie. Petitioner herein was due a sum of Rs.90,906/- and interest due from 24.02.2015 on the remaining balance. Aggrieved by the same, the present Civil Revision Petition is filed by the insurance company.

5) Learned counsel for the insurance company strenuously contends that the calculation sheet filed by the insurance company clearly demonstrate that the entire amount due has been paid. She points out the mistake alleged to have been committed by the respondents/claimants in their calculation sheet by showing interest on principal and also on interest, which is impermissible under law. The said aspect is disputed by the learned counsel for the respondents/ claimants. It is urged that as per the calculation which was

put forward by them, the insurance company is still due some amount.

6) It is to be noted that there is no dispute with regard to the enhancement of the compensation amount by this Court and also the interest to be paid on the said amount. But it appears that the claimants calculated interest at 9% per annum where as the Court and also the insurance company calculated the interest at 7.5%p.a.

7) It is urged by the learned counsel for the petitioner that the Court below committed mistake in calculating interest on Rs.3,87,499/- for the period from 25.02.2006 to 24.02.2015 as the interest is already included in that amount.

8) A perusal of the impugned order would show that though the petitioner claims to have paid an amount of Rs.2,07,330/- on 24.02.2005, the Court below appears to have calculated interest at 7.5% p.a. on Rs.3,87,499/- from 25.02.2005 to 24.02.2015, which is seriously commented upon.

9) In view of the alleged discrepancy with regard to calculation made, the matter is remanded to the trial Court for fresh consideration and disposal. It shall be open to the parties to file fresh calculation memos before the trial Court.

The trial Court shall pass orders in the E.P. within six (06) weeks from the date of receipt of a copy of this order.

10) Accordingly, the Civil Revision Petition is disposed of with the above direction. There shall be no order as to costs.

11) Miscellaneous Petition, if any, pending in this Civil Revision Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

01.11.2016
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