

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 2226 of 2017

ORDER:

1) The present revision is filed under Section 115 of C.P.C. by the United India Insurance Company Limited, questioning the order dated 15.02.2017 passed in O.E.P.No.10 of 2015 in M.V.O.P.No.342 of 2000 on the file of the VIII Additional District and Sessions Judge, Chittoor, wherein an attachment order came to be passed against the judgment debtor as it failed to pay the E.P. amount of Rs.84,481/-.

2) The brief facts are as under:

The respondents 1 and 2 herein filed M.V.O.P.No.342 of 2000 claiming compensation of Rs.2,50,000/-, on account of death of one A.Shanmugam, in a road accident. The Accident Claims Tribunal allowed the said petition, by awarding compensation of Rs.2,50,000/- with interest @ 9% per annum from the date of petition till the date of realization. Aggrieved by the same, the petitioner herein filed M.A.C.M.A.No.3607 of 2005 before this Court. Initially this Court, by an order dated 26.12.2005, granted interim stay subject to deposit of half of the awarded amount including interest and costs, within a period of six weeks from that day and on such deposit, the claimants were permitted to withdraw the same in the same proportion as ordered by the Court below. Complying with the order of the High Court, the

petitioner deposited 50% of the decretal amount ie Rs.1,25,181/- on 16.02.2006 by deducting Rs.25,000/- which was paid at the time of preferring appeal. In total, as on 16.02.2006, the petitioner paid Rs.1,50,181/-. Subsequently, by its judgment dated 28.03.2014, this Court, allowed the appeal by reducing the compensation from Rs.2,50,000/- to Rs.2,00,000/- and also reduced the interest from 9% to 7.5%. On 01.07.2014 the petitioner is said to have deposited the entire amount of Rs.1,76,819/- together with interest at 7.5%p.a.

3) 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.85,534/- whereas the claim of the insurance company-petitioner is that entire amount of Rs.1,76,819/-, 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.84,481/- and issued the attachment warrant, on payment of batta. Aggrieved by the same, the present Civil Revision Petition is filed by the insurance company.

4) 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. He points out the mistake alleged to have been

committed by the respondents/ claimants in their calculation sheet. It is urged that interest on the entire awarded amount ie. from the date of petition till 07.03.2014, on which date the entire amount was deposited, was calculated without deducting 50% of the amount deposited by the petitioner as per the directions of this Court.

5) The notice sent to the first respondent was returned unserved, as he died. Notice sent to the second respondent was served on 20.06.2017. In spite of service of notice there is no representation on behalf of the second respondent.

6) It is to be noted that there is no dispute with regard to reduction of the compensation amount by this Court. A perusal of the calculation filed along with the E.P. would show that the claimants claimed interest on Rs.2,00,000/- at 7.5%p.a. from the date of petition ie. 24.08.2000 till 07.03.2014, which comes to Rs.2,07,874/-. It is to be noted that as per the directions of this Court vide interim order dated 26.12.2005, the petitioner is said to have deposited an amount of Rs.1,25,181/- on 16.02.2006 and also an amount of Rs.25,000/-, while preferring the appeal. Without deducting the said amounts, the claimants calculated interest on the entire principal amount of Rs.2,00,000/-, which appears to be incorrect.

7) In view of the alleged discrepancy with regard to calculation made, the order directing the petitioner to pay Rs.84,481/- is *set aside* and the matter is remanded to the trial

Court for fresh consideration and disposal in accordance with law.

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, after hearing all concerned.

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

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

04.08.2017
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JUSTICE C. PRAVEEN KUMAR